

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

MATTHEW ABERCROMBIE, *et al.*,

Plaintiffs,

v.

COMPLEX LITIGATION UNIT

CASE NO. 08-060702 CACE (07)

CASE NO. 09-01853 CACE (07)

(Consolidated)

SB HOTEL ASSOCIATES, LLC,
BAYROCK GROUP, LLC,
DONALD TRUMP, ROY STILLMAN,
CHICAGO TITLE INSURANCE
COMPANY and CORUS BANK, N.A.,

Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO AMEND TO ASSERT CLAIMS FOR
PUNITIVE DAMAGES AGAINST DONALD TRUMP**

Plaintiffs move for leave to amend their second amended complaint to assert claims for punitive damages against Donald J. Trump and state:

1. Plaintiffs are 81 preconstruction contract purchasers of 53 condominium hotel units that were to be located on Fort Lauderdale Beach in a project that was called "Trump International Hotel & Tower Fort Lauderdale (the "Project"). In 2005-2006, Plaintiffs paid preconstruction deposits totaling \$7,759,973.00 towards their 53 condo hotel units.

2. The Project failed in 2009, and Plaintiffs are seeking to recoup their deposits from Donald Trump, who misrepresented his role in the Project, falsely claiming that he was the developer of the Project.

3. Plaintiffs' claims include fraud in the inducement (Count V), false advertising pursuant to §817.41, F.S. (Count VI), FDUTPA (Count VIII), ILSA (Count XI), and negligent misrepresentation (Count XII). Plaintiffs now request leave of Court, pursuant to §768.72, to assert claims for punitive damages against Trump.

Legal Standard for Punitive Damages

4. The primary policy objectives of punitive damage awards are punishment of the wrongdoer and deterrence of similar wrongful conduct in the future, rather than compensation of the injured victim. *Owens-Corning Fiberglas Corp. v. Ballard*, 749 So.2d 483 (Fla.1999); *W.R. Grace & Co.-Conn. v. Waters*, 638 So.2d 502 (Fla.1994); *Estate of Despain v. Avante Grp., Inc.*, 900 So. 2d 637, 640 (Fla. 5th DCA 2005).

5. To merit an award of punitive damages, a defendant's conduct must transcend the level of ordinary negligence and enter the realm of willful and wanton misconduct, which the courts define as conduct that is of a:

gross and flagrant character, evincing ...[an] entire want of care which would raise the presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard of the... welfare of the public, or that reckless indifference to the rights of others which is equivalent to an intentional violation of them.

Estate of Despain at p. 640.

6. In cases where a plaintiff has submitted evidence of fraud, malice, gross negligence, or oppression, punitive damages are properly recoverable. *First Interstate Dev. Corp. v. Ablanado*, 511 So. 2d 536, 539 (Fla. 1987), quoting *Winn & Lovett Grocery Co. v. Archer*, 171 So. 214, 222 (Fla. 1936).

7. Indeed, with respect to fraud claims, when a party has presented sufficient facts in support of a fraudulent inducement claim that would entitle him to an award of compensatory damages, he has also presented sufficient facts that would support a request for punitive damages. *First Interstate Dev.* at 539; *Rappaport v. Jimmy Bryan Toyota of Fort Lauderdale, Inc.*, 522 So. 2d 1005, 1006 (Fla. 4th DCA 1988) ("Thus, in all cases of fraud the jury is empowered to award punitive damages."); *Perlman v. Prudential Ins. Co. of America*, 686 So.2d

1378 (Fla. 3d DCA 1997); *Hialeah Auto. LLC v. Basulto*, 22 So.3d 586, 590 (Fla. 3d DCA 2009) (“...punitive damages are available in judicial proceedings where there is a fraud claim.”).

8. In order to plead a claim for punitive damages, plaintiffs must comply with §768.72(1), *Fla. Stat.*, which provides:

In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

9. The “proffer” required by §768.72 is merely a representation of what evidence the Plaintiffs **propose** to present at trial. *Despain* at 642. For example, in *Holmes v. Bridgestone/Firestone, Inc.*, 891 So.2d 1188, 1191 (Fla. 4th DCA 2005), where a motorist sued Firestone for defective tires, the 4th DCA held that the documents attached to Plaintiff’s motion, consisting entirely of information obtained from a Ralph Nader website, were sufficient to entitle the plaintiff to allege a claim for punitive damages. In so holding, the Court rejected the defendant’s argument that the proffered information was inadmissible hearsay, holding:

We agree with plaintiffs that the proffer reflected facts from which it could be found that Firestone knew about the tread separation, but delayed warning the public in order to protect its own financial interests. Such a finding would support punitive damages.

10. The applicable legal standard in the trial court’s determination of whether a party should be permitted to allege punitive damages is similar to the standard that is applied to determine whether a complaint states a cause of action. *Id.* at 1191 (Fla. 4th DCA 2005); *Despain* at 644.

11. Therefore, this Court must view the evidence in a light favorable to Plaintiffs. *Wayne Frier Home Ctr. of Pensacola, Inc. v. Cadlerock Joint Venture, L.P.*, 16 So. 3d 1006, 1009 (Fla. 1st DCA 2009). Stated differently, this Court must determine, based on a review of Plaintiffs' proffer, whether there is a legal basis for the recovery of punitive damages shown by **any interpretation of the evidence favorable to the plaintiff**. *Estate of Williams ex rel. Williams v. Tandem Health Care of Florida*, 899 So.2d 369, 376 (Fla. 1st DCA 2005).

Facts and Evidence Supporting Punitive Damages

12. In this case, the evidence is compelling, indeed beyond dispute, that Donald Trump:

- (a) represented himself as the developer of the Project;
- (b) Plaintiffs were aware of, and relied upon, Trump's representations in entering into 53 separate purchase agreements (collectively the "Purchase Agreement") for units in the Project;
- (c) Trump's representations that he was the developer of the Project were false; and
- (d) Plaintiffs have been damaged by Trump's false representations.

Evidence establishing Trump's misrepresentations is discussed in detail below.

Trump's Misrepresentations

13. Evidence of Trump's false representations that he was the developer of the project includes the following:

- a. Providing Plaintiffs with a letter signed by Trump in his individual capacity to Plaintiffs, prior to signing purchase agreements, stating: "It is with great pleasure that **I present my latest development, Trump International Hotel & Tower, Fort Lauderdale**. This magnificent oceanfront resort offers the finest and most luxurious experience **I have created... I have selected Fort Lauderdale for my newest hotel** because I believe it offers the best location for a world-class development...." The letterhead is for "Trump International Hotel & Tower Fort Lauderdale," which is neither a registered or licensed legal entity or fictitious

name in Florida, Delaware or New York. A copy of this letter (the “Great Pleasure Trump Letter”) is attached hereto as Exhibit A.

- b. Sending a letter to Plaintiffs, signed by Donald Trump as President and CEO of The Trump Organization, stating, in part: “...**My newest development in Fort Lauderdale** will join only three other select properties that include the flagship Trump International Hotel & Tower in New York City, as well as Chicago and Las Vegas. My vision is to provide Fort Lauderdale with a landmark for the 21st century.” A copy of a sample letter is attached hereto as Exhibit B.
- c. Sending Plaintiffs a letter signed by Donald Trump, as “President and CEO,” again on letterhead for the nonexistent “Trump International Hotel & Tower Fort Lauderdale,” stating that “Trump International Fort Lauderdale is a **Signature Trump Development...**” A copy of a sample letter is attached hereto as Exhibit C.
- d. Providing Plaintiffs with a 13” x 13” hard-bound 24 page book about the Project. The first page is ivory colored parchment paper with Donald Trump’s signature emblazoned across the center in a size exceeding 3” x 5” and stating beneath it “A SIGNATURE DEVELOPMENT BY DONALD J. TRUMP.” These are the only words appearing on the entire 13” x 13” page. Excerpts of this book are attached hereto as Exhibit D.

The book includes the Great Pleasure Trump Letter described above. The materials further describe the Project as “[o]ne of only four Donald J. Trump Signature condominium hotels in North America.” It further states that the “Trump experience stands alone when it comes to luxury.” The last page of the book states: “**Only one developer could produce this landmark**” under the Trump logo.
- e. Stating in a brochure delivered to Plaintiffs in the fall of 2005 that “Donald J. Trump, Roy Stillman and Bayrock Group are proud to announce that construction has begun at Trump International Hotel & Tower Fort Lauderdale....” The brochure includes the Great Pleasure Trump Letter described above, and states “The development has garnered particular attention as Mr. Trump’s first project in Broward County...” An excerpt of this brochure is attached hereto as Exhibit E.
- f. Delivering to Plaintiffs, prior to their entry into purchase agreements, a brochure with a profile of Donald Trump, together with photos of his other developments, and promotional materials. This brochure includes the following statements:

“**This signature development by Donald J. Trump** will become a destination for many and a home for the select few.”

The profile includes the following statements: “Donald J. Trump is the very definition of the American success story....Mr. Trump is committed to personal and direct involvement in everything that his name represents. This commitment has made him the preeminent developer of quality real estate known around the world.

“No other real estate company has established the international brand identity that Trump has created. In an industry where quality is sometimes difficult to discern, the Trump signature is known and trusted the world over as a name in luxury real estate.” Excerpts of this brochure are attached hereto as Exhibit F.

g. Another full-page promotional brochure for the Project states “[b]ehind the project is real estate mogul Donald J. Trump and prominent New York-based developer Roy Stillman in partnership with internationally recognized resort and hotel development company Bayrock Group. A copy of this brochure is attached hereto as Exhibit G.

h. The internet website for the Project (www.TrumpFortLauderdale.com), which has since been taken down, stated as follows:

“There is luxury...And there is the Trump experience. There is only one person who could create something this original.”

“This signature development by Donald J. Trump...”

The “Team” identified as being responsible for the development of the Property includes Donald Trump, Roy Stillman and the Bayrock Group, amongst others.

14. In addition to the above, Trump made numerous misrepresentations about his role as a “developer” of the Project in magazine interviews and advertisements, some of which were given to Plaintiffs by the Project’s sales team. These materials included the following:

a. Florida Trend Magazine (May 1, 2005): Florida Trend published news stating: “Real estate developer **Donald Trump has announced plans to build** a 298-unit luxury condominium/ hotel in Fort Lauderdale Beach. The Trump International Hotel & tower is scheduled for completion in February 2007.”

b. Architectural Digest (July 2005): The Project was featured, identifying Donald Trump and Roy Stillman as the “Principals/ Owners” and Bayrock Group, LLC as the developer.

c. Miami Herald Home & Design (March 13, 2005): The Project was featured, with the article stating “Real estate developer Donald J. Trump, New York-based

developer Roy Stillman and hotel development company called Bayrock Group are partners in the venture.”

- d. Avenue Magazine (April 2005): This magazine featured a “developer profile” of Donald Trump, titled “An Ace in the Hole” with photographs of Trump, Stillman and an artist’s rendering of the Project. The article refers to Trump, Stillman and Bayrock as part of a “development quartet.”
- e. Ocean Drive Magazine (May 2005): This magazine featured “Trump Fort Lauderdale,” described as a 24 story condominium hotel by Donald J. Trump and Stillman Bayrock...”
- f. Vacation Homes (Summer 2005): The magazine stated: “His newest undertaking is Trump International Hotel & Tower..., to be built in conjunction with New York Resort developer Roy Stillman and Bayrock Group, LLC.”
- g. Press Release (June 2005): A press release was issued stating that “Donald J. Trump is developing the property in partnership with Bayrock and New York-based developer Roy Stillman.”

Evidence That Trump’s Representations Were False

15. All of the pre-contract claims that Trump was the developer, or one of the developers of the Project, were false. This previously well-concealed fact first became public on May 28, 2009 when, in response to an article in the Daily Business Review (“DBR”) about the failure of the Project, Trump’s representative sent a statement to the DBR reporter stating, in relevant part: “Neither The Trump Organization, nor its affiliates, are the owners or developers of the property in Fort Lauderdale.....” This statement is attached hereto as Exhibit “H.”

16. Indeed, contrary to the pre-contract representations in the letters and sales materials, Trump was not the developer of the Project. In fact, in October 2004, prior to representing that he was the developer of the Project, Trump became a “Class B” member of Stillman Bayrock Merrimac, LLC (“SBM”), which was the sole member of SB Hotel Associates, LLC, the actual developer of the Project and owner of the Property.

17. In the SBM operating agreement, Trump acknowledged that he was being paid approximately \$1 million to act as a consultant “from time to time upon the reasonable request of the Company (and not on a full time basis),” and that Trump had no “voting rights nor any management or control rights with respect to any aspect” of SBM, SB Hotel, or the Project, nor did Trump have “any rights or obligations with respect to the profits, losses and/or distributions of the Company.” Likewise, Trump did not have “any power to represent, act for, sign for or bind the Company.” Relevant excerpts of the SBM operating agreement are attached hereto as Exhibit I.

18. Notwithstanding the foregoing, Trump agreed to keep his limited involvement in the development of the Project strictly confidential, thereby allowing him to misrepresent himself as the “developer” of the Project with impunity. *See* Exhibit I, §14.04.

Proof of Plaintiffs’ Reliance on Trump’s Misrepresentations and their Damages

19. Plaintiffs have filed excerpts of their sworn interrogatory answers in support of this motion. The interrogatory answers make clear that Plaintiffs’ relied on the misrepresentations that Trump was the developer, or one of the developers of the Project, in entering into the Purchase Agreement, and that Plaintiffs were damaged thereby.

Conclusion

20. The evidence is compelling that Trump made false representations that he was the developer of the Project, and that Plaintiffs entered into purchase contracts and were damaged based on Trump’s false representations. Consequently, this Court should permit Plaintiffs to amend to seek punitive damages against Trump. Plaintiffs’ proposed Third Amended Complaint is attached hereto (without exhibits) as Exhibit J.

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(Consolidated)

Wherefore Plaintiffs respectfully request that this Court grant Plaintiffs leave to file their third amended complaint to assert claims for punitive damages, together with such further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email on: Herman J. Russomanno III, Esq., Russomanno & Borrello, P.A., 150 W. Flagler Street, Miami, FL 33130, Herman2@russomanno.com; and Stephanie R. Traband, Esq., Stuart I. Grossman, Esq., Levine Kellogg Lehman Schneider Grossman, LLP, 201 S Biscayne Blvd., Fl 22, Miami, Florida 331312301, sig@lklsg.com, srt@lklsg.com on this 31st day of July 2013.

JOSEPH E. ALTSCHUL, LLC
2717 W. Cypress Creek Road
Fort Lauderdale, FL 33309
(954) 556-4821 – Telephone
(954) 343-5600 – Facsimile

By: /s/ Joseph Altschul
Joseph E. Altschul, Esq.
Florida Bar No.: 0867470



It is with great pleasure that I present my latest development, Trump International Hotel & Tower, Fort Lauderdale. This magnificent oceanfront resort offers the finest and most luxurious experience I have created.

I have selected Fort Lauderdale for my newest hotel because I believe it offers the best location for a world-class development. Having spent many years at my home Mar-a-Lago nearby, I have first hand knowledge of South Florida's golden beaches, clear waters and cultural amenities. These aspects, along with the building's innovative architectural design and spectacular views of the Atlantic Ocean, will make Trump International Hotel & Tower the most sought after destination.

Never before has there been an opportunity to experience beachfront living like this. Located on one of the last remaining development sites on Fort Lauderdale Beach, Trump International will become a place like no other.

Best Regards,

A handwritten signature in dark ink, appearing to read 'Donald J. Trump'. The signature is stylized with a large, prominent 'D' and 'T'.

Donald J. Trump

TRUMP

THE TRUMP ORGANIZATION

May 24, 2005

Dear Mr. Everet,

I would like to express my personal gratitude in welcoming you to the future Trump International Hotel & Tower, Fort Lauderdale. This signature Trump property is one that I consider to be very unique and part of a distinguished inner circle. My newest development in Fort Lauderdale will join only three other select properties that include the flagship Trump International Hotel & Tower in New York City, as well as Chicago and Las Vegas. My vision is to provide Fort Lauderdale with a landmark for the 21st century.

Just as in my other properties, owners and hotel guests will enjoy unparalleled levels of excellence in all aspects of their Trump experience. These include Five-Star services, fine dining, outstanding architectural design and spectacular views from your oceanfront location. Such amenities make this property a dream of many, but a reality for only a privileged few.

I look forward to bringing our internationally acclaimed Trump style of hotel condominium ownership and guest services to Fort Lauderdale!

Sincerely,



Donald J. Trump
President and CEO



May 25, 2005

Dear Mr. Everet,

I am delighted to share with you the exciting news that we have commenced construction of Trump International Hotel & Tower, Fort Lauderdale! Your new oceanfront condominium hotel unit is taking shape at this very moment, and we are right on schedule to open the doors in spring of 2007.

Trump International Fort Lauderdale is a Signature Trump Development that I consider to be a very unique part of a distinguished inner circle. This development will be modeled after the flagship Trump International Hotel & Tower in New York, which was recently rated the number one hotel in North America by *Condé Nast Traveler*. With its outstanding architecture and design, five-star services and amenities, Trump International Fort Lauderdale will raise the bar in every aspect to provide South Florida with a landmark for the 21st Century.

I congratulate you for joining me to make history in Fort Lauderdale. I take great personal satisfaction in sharing our continued progress with you as we reach each milestone.

Sincerely,

A handwritten signature in black ink, reading "Donald J. Trump".

Donald J. Trump,
President and CEO

Exhibit C



TRUMP
INTERNATIONAL
HOTEL & TOWER
FORT LAUDERDALE



A SIGNATURE DEVELOPMENT BY DONALD J. TRUMP



TRUMP
INTERNATIONAL
HOTEL & TOWER
FORT LAUDERDALE



It is with great pleasure that I present my latest development, Trump International Hotel & Tower, Fort Lauderdale. This magnificent oceanfront resort offers the finest and most luxurious experience I ever created.

I have selected Fort Lauderdale for my newest hotel because I believe it offers the best location for a world-class development. Having spent many years at my home Mar-a-Lago nearby, I have first hand knowledge of South Florida's golden beaches, clear waters and cultural amenities. These aspects, along with the building's innovative architectural design and spectacular views of the Atlantic Ocean, will make Trump International Hotel & Tower the most sought after destination.

Never before has there been an opportunity to experience beachfront living like this. Located on one of the last remaining development sites on Fort Lauderdale Beach, Trump International will become a place like no other.

Best Regards,

Donald J. Trump

The Trump International Hotel & Tower Fort Lauderdale is the first in South Florida. One of only four Donald J. Trump Signature condominium hotels in North America, this world-class development is designed by Michael Graves and sits at the edge of Fort Lauderdale Beach and the pristine waters of the Atlantic Ocean.

NEW YORK • CHICAGO • LAS VEGAS • FORT LAUDERDALE

*This signature development by Donald J. Trump will become a destination for many
and a hotel residence for the select few.*

DONALD J. TRUMP

Donald J. Trump is the very definition of the American success story. In 1980, he established The Trump Organization as the nationally company for all of his real estate development and other corporate affiliates. He has continually set new standards of excellence while expanding his interests in luxury residential real estate, world-class hotels, office buildings, championship golf clubs, gaming and entertainment. Mr. Trump is committed to personal and direct involvement in everything that his name represents. This commitment has made him the preeminent developer of quality real estate known around the world.

No other real estate company has established the international brand identity that Trump has created. In an industry where quality is sometimes difficult to describe, the Trump signature is known and trusted the world over as the mark of luxury real estate.

From project development to construction, sales and property management, The Trump Organization has carried out a variety of complex real estate deals. The company's proven organizational skills match the difficult challenges these projects have presented, from large scale resorts to intimate five-star hotels, and from urban high-rises to suburban townhouses and golf clubs. The Trump Organization has worked closely with leading architects, financial institutions, construction managers, attorneys and governmental agencies.

The foundation of the company's success is based on solid management practices, prompt and uniform property maintenance. The Trump Organization emphasizes service, skill and efficiency. At the heart of each successful venture is the fact that every purchaser, renter and visitor is assured of receiving the best service in secure surroundings.

In addition to being one of the largest developers in New York, Mr. Trump is currently planning residential, hotel and golf club projects in Los Angeles, Phoenix (planned), Las Vegas, Florida, San Francisco, Westchester, NY and Bridgewater, NJ. He also continues to be active with numerous charity persons, charitable organizations and has worked with numerous and his enjoy sales from whom, The Apprentice



TRUMP PROPERTIES AND OTHER INTERESTS



RESIDENTIAL PROPERTIES

Trump Island Villas - Curacao Islands, the Grenadines - *In Development*
Trump Park Avenue - 502 Park Avenue, New York
The Trump World Tower - 345 United Nations Plaza, New York
Trump Place at Riverside Boulevard, New York
410 Park Avenue, New York
Trump Parc and Trump Parc East - 100 and 106 Central Park South, New York
Trump Plaza - 607 East 61st Street, New York
Trump Palace - 300 East 69th Street, New York

GOLF COURSES AND RESORTS

Trump International Golf Club at Raffles Resort - Curacao Island
Trump National Golf Club Los Angeles and The Estates - *Opening Spring 2005*
Trump International Golf Club Brazil and Vello Trump - Itatiba, Brazil - *In Development*
Trump National Golf Club Bedminster - Lammington Farms, New Jersey
Trump National Golf Club Westchester and The Residences - Briarcliff Manor, New York
Trump International Golf Club - Palm Beach, Florida

COMMERCIAL PROPERTIES

The Trump Building at 40 Wall Street - New York
Trump Tower - 725 Fifth Avenue, New York

CASINOS AND CASINO RESORTS

Mar-A-Lago Club - Palm Beach, Florida
Trump Club Privée at Raffles Resort - Curacao Island
Trump 29 - Coachella, California
Trump Taj Mahal Casino Resort - Atlantic City
Trump Plaza Hotel and Casino - Atlantic City
Trump Marina Hotel Casino - Atlantic City
Trump Hotel Casino, Lake Michigan - Duffington Harbor, Indiana



TRUMP
INTERNATIONAL
HOTEL & TOWER
FORT LAUDERDALE

ONE OF A KIND



TRUMP
INTERNATIONAL
HOTEL & TOWER
FORT LAUDERDALE



It is with great pleasure that I present my latest development, Trump International Hotel & Tower, Fort Lauderdale. This magnificent oceanfront resort offers the finest and most luxurious experience I have created.

I have selected Fort Lauderdale for my newest hotel because I believe it offers the best location for a world-class development. Having spent many years at my home Mar-a-Lago nearby, I have first hand knowledge of South Florida's golden beaches, clear waters and cultural amenities. These aspects, along with the building's innovative architectural design and spectacular views of the Atlantic Ocean, will make Trump International Hotel & Tower the most sought after destination.

Never before has there been an opportunity to experience beachfront living like this. Located on one of the last remaining development sites on Fort Lauderdale Beach, Trump International will become a place like no other.

Best Regards,



ARCHITECTURAL DIGES

THE INTERNATIONAL MAGAZINE OF ARCHITECTURE DESIGN

SENATOR and MRS. JOHN MCCAIN
An Exclusive Interview by Paul Theroux Inside Their Phoenix Home



EL PASO

LA VIDA EN EL PASO



BUENA EXPRESS A LOS
SOLTEROS
MILLONARIOS
BUSCANDO AMOR

The Robb Report

SAVING YOUR LIFE. EXECUTIVE PROTECTION DRIVING SCHOOL

COLLECTION



KOENIGSEGG
Driving the World's Fastest
Production Car

THE NEW YORK TIMES

THE NEW YORK TIMES



BILLION DOLLAR LADY
TEN DECORATORS WITH
PIGGY BANKS

YOUR BUSINESS

YOUR BUSINESS



WELCOME

MIAMI

MIAMI



Katrina Campins
Learn why she is no one's apprentice after a

Vacation Home

VACATION HOME



HOT MIDWINTER
TURKS & CAICOS
PATAGONIA AND PROVENCE

THE NEW YORK TIMES

THE NEW YORK TIMES



BILLION DOLLAR LADY
TEN DECORATORS WITH
PIGGY BANKS

CONDO LIVING

CONDO LIVING



Welcome Home
Fort Lauderdale's latest Jewel

Las Vegas

Las Vegas



Katrina Campins
Learn why she is no one's apprentice after a

DR-CAFT

DR-CAFT



DR-CAFT

LIVE

LIVE



El hombre, el espacio
y el tiempo
Lo que viene
en moda y joyas



DONALD J. TRUMP

Donald J. Trump is the very definition of the American success story. In 1980, he established The Trump Organization as the umbrella company for all of his real estate development and other corporate affiliates. He has continually set new standards of excellence while expanding his interests in luxury residential real estate, world-class hotels, office buildings, championship golf clubs, gaming and entertainment. Mr. Trump is committed to personal and direct involvement in everything that his name represents. This commitment has made him the preeminent developer of quality real estate known around the world.

No other real estate company has established the international brand identity that Trump has created. In an industry where quality is sometimes difficult to discern, the Trump signature is known and trusted the world over as the name in luxury real estate.

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The foundation of the company's success is based on solid management practices. From staff uniforms to property maintenance, The Trump Organization emphasizes service, skill and efficiency. At the heart of each successful venture is the fact that every purchaser, renter and visitor is assured of receiving the best service in secure surroundings.

In addition to being one of the largest developers in New York, Mr. Trump is currently planning residential, hotel and golf club projects in Los Angeles, Phoenix (*planned*), Las Vegas, Florida, the Caribbean, Westchester, NY and Bedminster, NJ. He also continues to be active with numerous literary pursuits, charitable organizations and his world-wide number one hit reality television show, *The Apprentice*.

TRUMP PROPERTIES AND OTHER INTERESTS

MIXED-USE PROPERTIES

Trump International Hotel & Tower - Chicago, Illinois - *Opening 2008*
 Trump International Hotel & Tower - Las Vegas, Ft. Lauderdale, Phoenix - *Planned*
 Trump International Hotel & Tower - One Central Park West, New York
 Trump Tower - 721 & 725 Fifth Avenue, New York
 Trump Grande Ocean Resort and Residences - Trump International
 Sonesta Beach Resort, Trump Palace and Trump Royale - Sunny Isles Beach, Florida

RESIDENTIAL PROPERTIES

Trump Island Villas - Canouan Islands, the Grenadines - *In Development*
 Trump Park Avenue - 502 Park Avenue, New York
 The Trump World Tower - 845 United Nations Plaza, New York
 Trump Place at Riverside Boulevard, New York
 610 Park Avenue, New York
 Trump Parc and Trump Parc East - 100 and 106 Central Park South, New York
 Trump Plaza - 167 East 61st Street, New York
 Trump Palace - 200 East 69th Street, New York

GOLF CLUBS AND RESIDENCES

Trump International Golf Club at Raffles Resort - Canouan Island
 Trump National Golf Club Los Angeles and The Estates - *Opening Spring 2005*
 Trump International Golf Club Brazil and Villa Trump - Itatiba, Brazil - *In Development*
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 Trump National Golf Club Westchester and The Residences - Briarcliff Manor, New York
 Trump International Golf Club - Palm Beach, Florida

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Mar-A-Lago Club - Palm Beach, Florida
 Trump Club Privee at Raffles Resort - Canouan Island
 Trump 29 - Coachella, California
 Trump Taj Mahal Casino Resort - Atlantic City
 Trump Plaza Hotel and Casino - Atlantic City
 Trump Marina Hotel Casino - Atlantic City
 Trump Hotel Casino, Lake Michigan - Buffington Harbor, Indiana





FORUM P
INTERNATIONAL
OPERATIONS & TECHNOLOGY
FOR CAUSALITY



It is with great pleasure that I present my latest development, Trump International Hotel & Tower, Fort Lauderdale. This magnificent oceanfront resort offers the finest and most luxurious experience I have created.

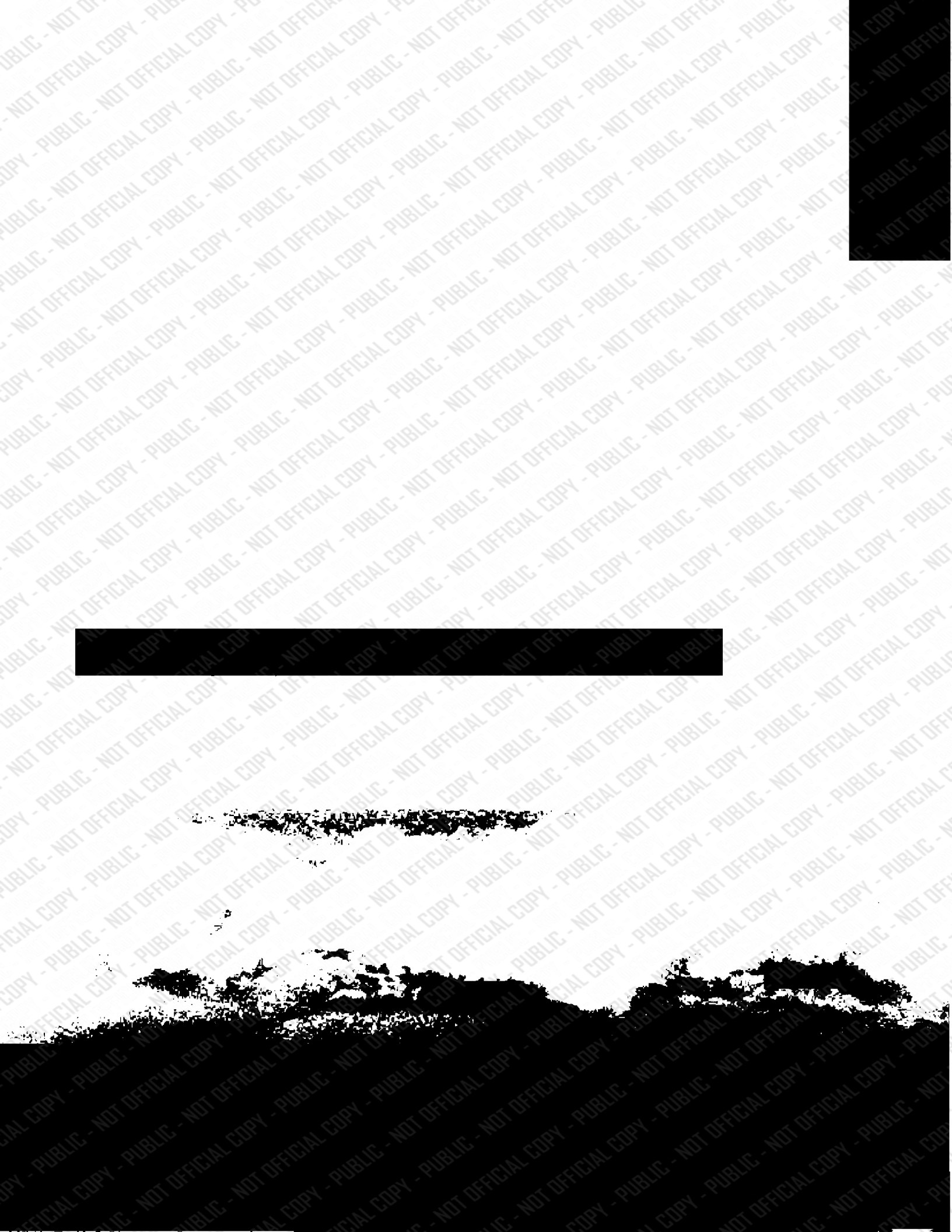
I have selected Fort Lauderdale for my newest hotel because I believe it offers the best location for a world-class development. Having spent many years at my home Mar-a-Lago nearby, I have first hand knowledge of South Florida's golden beaches, clear waters and cultural amenities. These aspects, along with the building's innovative architectural design and spectacular views of the Atlantic Ocean, will make Trump International Hotel & Tower the most sought after destination.

Never before has there been an opportunity to experience beachfront living like this. Located on one of the last remaining development sites on Fort Lauderdale Beach, Trump International will become a place like no other.

Best Regards,

A handwritten signature in dark ink, appearing to read 'Donald Trump'. The signature is stylized with a large, prominent 'D' and a long, sweeping horizontal line.

Donald J. Trump



TRUMP INTERNATIONAL HOTEL & TOWER will soon present Fort Lauderdale with an incredible landmark for the 21st Century. This signature development by Donald J. Trump will become a destination for many and a home for the select few.

TOWER FEATURES

- Spectacular 24-story Condominium Hotel with 298 luxury guestrooms
- Superb oceanfront location overlooking the Atlantic Ocean and the Intracoastal Waterway
- Inspired architecture and interiors by world-renowned Michael Graves & Associates
- Unique elements including a mosaic-tile grand pool and deck with lush foliage

GUESTROOM FEATURES

- Masterfully appointed deluxe studios, one and two-bedroom suites
- Modern layouts with flexible design that allow for multiple units to create larger suites
- Oversized windows that offer expansive views of both the Atlantic Ocean and the Intracoastal Waterway
- Flat-screen Televisions with DVD and CD players
- Exquisitely planned and finished kitchens fully equipped with top-of-the-line appliances
- Luxurious four and five-fixture bathrooms with marble vanity tops, separate shower and baths
- Owner's private storage closet in all guestrooms
- Wireless internet, high-tech security and both voice and data capabilities

SERVICES AND AMENITIES

- 24-hour access to the hotel's five-star amenities, including white glove concierge services, security, valet, housekeeping and room service
- 5,000 sq. ft. health club and spa
- Fitness center with state-of-the-art equipment and personal trainers
- World-class restaurant featuring spectacular beach and ocean views with outdoor seating

DONALD J. TRUMP

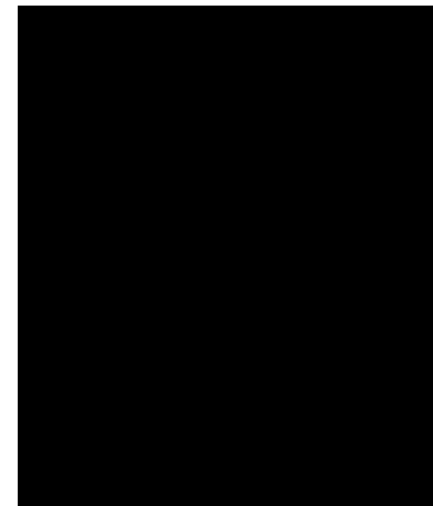
Donald J. Trump is the very definition of the American success story. In 1980, he established The Trump Organization as the umbrella company for all of his real estate development and other corporate affiliates. He has continually set new standards of excellence while expanding his interests in luxury residential real estate, world-class hotels, office buildings, championship golf clubs, gaming and entertainment. Mr. Trump is committed to personal and direct involvement in everything that his name represents. This commitment has made him the preeminent developer of quality real estate known around the world.

No other real estate company has established the international brand identity that Trump has created. In an industry where quality is sometimes difficult to discern, the Trump signature is known and trusted the world over as the name in luxury real estate.

From project development to construction, sales and property management, The Trump Organization has carried out a variety of complex real estate deals. The company's proven organizational skills match the difficult challenges these projects have presented. From large scale resorts to intimate five-star hotels, and from urban hi-rises to suburban townhouses and golf clubs, The Trump Organization has worked closely with brokerage communities, financial institutions, construction managers, architects and governmental agencies.

The foundation of the company's success is based on solid management practices. From staff uniforms to property maintenance, The Trump Organization emphasizes service, skill and efficiency. At the heart of each successful venture is the fact that every purchaser, renter and visitor is assured of receiving the best service in secure surroundings.

In addition to being one of the largest developers in New York, Mr. Trump is currently planning residential, hotel and golf club projects in Los Angeles, Phoenix (*planned*), Las Vegas, Florida, the Carribean, Westchester, NY and Bedminster, NJ. He also continues to be active with numerous literary pursuits, charitable organizations and his world-wide number one hit reality television show, The Apprentice.



TRUMP PROPERTIES AND OTHER INTERESTS

MIXED-USE PROPERTIES

Trump International Hotel & Tower - Chicago, Illinois - *Opening 2008*
Trump International Hotel & Tower - Las Vegas, Ft. Lauderdale,
Phoenix - *Planned*
Trump International Hotel & Tower - One Central Park West, New York
Trump Tower - 721 & 725 Fifth Avenue, New York
Trump Grande Ocean Resort and Residences - Trump International
Sonesta Beach Resort, Trump Palace and Trump Royale - Sunny Isles
Beach, Florida

RESIDENTIAL PROPERTIES

Trump Island Villas - Canouan Islands, the Grenadines - *In Development*
Trump Park Avenue - 502 Park Avenue, New York
The Trump World Tower - 845 United Nations Plaza, New York
Trump Place at Riverside Boulevard, New York
610 Park Avenue, New York
Trump Parc and Trump Parc East - 100 and 106 Central Park South, New York
Trump Plaza - 167 East 61st Street, New York
Trump Palace - 200 East 69th Street, New York

GOLF CLUBS AND RESIDENCES

Trump International Golf Club at Raffles Resort - Canouan Island
Trump National Golf Club Los Angeles and The Estates - *Opening
Spring 2005*
Trump International Golf Club Brazil and Villa Trump - Itatiba, Brazil - *In
Development*
Trump National Golf Club Bedminster - Lamington Farms, New Jersey
Trump National Golf Club Westchester and The Residences - Briarcliff
Manor, New York
Trump International Golf Club - Palm Beach, Florida

COMMERCIAL PROPERTIES

The Trump Building at 40 Wall Street - New York
Trump Tower - 725 Fifth Avenue, New York

CLUBS AND CASINO RESORTS

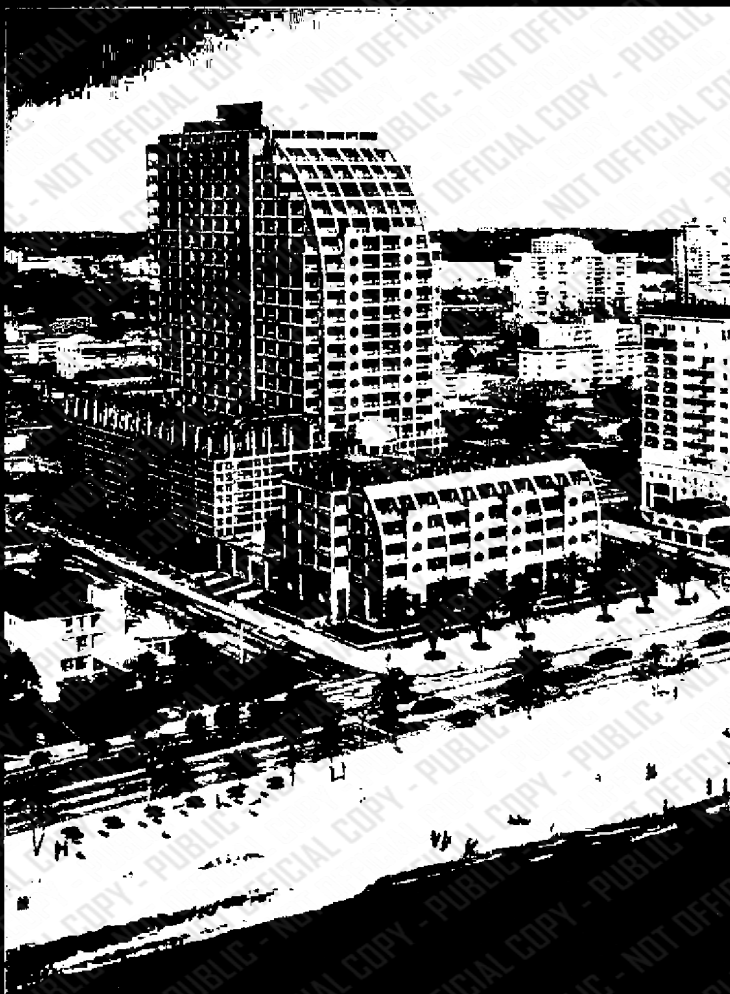
Mar-A-Lago Club - Palm Beach, Florida
Trump Club Privee at Raffles Resort - Canouan Island
Trump 29 - Coachella, California
Trump Taj Mahal Casino Resort - Atlantic City
Trump Plaza Hotel and Casino - Atlantic City
Trump Marina Hotel Casino - Atlantic City
Trump Hotel Casino, Lake Michigan - Buffington Harbor, Indiana

THERE IS LUXURY...AND THEN THERE IS THE TRUMP EXPERIENCE.

Trump International Hotel & Tower will debut in South Florida as a five-star, 298-unit condo/hotel on the ocean in Fort Lauderdale. Behind the project is real estate mogul Donald J. Trump and prominent New York-based developer Roy Stillman in partnership with internationally recognized resort and hotel development company Bayrock Group. The development will rise at 551 N. Ft. Lauderdale Beach Blvd. just north of Las Olas Boulevard. Construction will begin in April with completion scheduled for February 2007. Fully furnished and outfitted deluxe studios, one and two-bedroom suites will average approximately \$1,000 per square foot.

Flaunting a distinctive, curved shape, new to the Fort Lauderdale beachfront, the 24-story tower, designed by renowned Architect Michael Graves and Associates in collaboration with Oscar Garcia Architects, will resemble a 1925 luxury cruise liner in look and feel. "We are thrilled to be entering this market with such a presence. We've found the best location in which to offer the finest and most luxurious five-star experience. This will truly be a landmark on Fort Lauderdale Beach," states Donald J. Trump.

Roy Stillman, managing member of Stillman Bayrock Merrimac LLC, adds, "Our combined expertise in development will ensure a level of architectural innovation not seen in South Florida."



Donald J. Trump

Donald J. Trump

"Our alliance with two leading development firms creates a tightly woven infrastructure of finance, operations and development aptitude that buyers will recognize and the city will benefit from," commented Tefvik Arif of Bayrock Group, co-managing member of Stillman Bayrock Merrimac LLC. To exemplify Trump's signature level of luxury, Trump International Hotel & Tower Fort Lauderdale will have the most elegant interior finishes and features. Italian marble flooring and top-of-the-line appliances, unparalleled amenities and white-glove service, a health club and spa, world-class restaurant, concierge, valet, room service and 24-hour security will be among them.

Trump conceived the condominium hotel concept in New York with Trump International Hotel & Tower on Central Park West, which is currently rated the number one hotel in the United States by *Condé Nast Traveler*. Two major advantages of Trump's condo/hotel concept are that condominium owners have the option to allow a premier hotel management company to maintain and rent their units when not occupied, and that they are offered among the most favorable rental programs found in the marketplace today.

Donald J. Trump established The Trump Organization in 1980 as the umbrella organization for all of his real estate developments and other corporate affiliates. The Trump Organization is currently developing residential, hotel and golf club projects in Chicago, Las Vegas, Los Angeles, Phoenix, Miami, Toronto, the Caribbean, Westchester, New York, Bedminster, New Jersey and Seoul, South Korea. Roy Stillman, Principal of the Stillman Organization, Ltd. is a prominent real estate developer with projects in New York, Connecticut and Florida. The projects range from land planning to residential and commercial developments that include luxury condominiums and hotels. Stillman has most recently completed The Metropolitan, a high-rise luxury residential tower in Manhattan. Bayrock Group LLC is an international real estate investment and development company specializing in luxury residential, commercial, resort, hotel and mixed-use projects. Currently in the United States, Bayrock is developing projects in New York, Florida and Arizona. Bayrock has also developed and owns five luxury resorts on the Mediterranean Sea and throughout Europe, which are managed under Rixos, a subsidiary of Bayrock.

The temporary sales center is located at the Galleria Luxury Collection at 954 E. Las Olas Blvd., with the onsite sales center scheduled to open in April.

For more information, call 866-TRUMP-01 (866-878-6701) or visit www.trumpfortlauderdale.com.

Joseph Altschul

Subject: FW: trump's reply
Attachments: Ft. Lauderdale Statement.doc

From: Terry Sheridan [<mailto:Terry.Sheridan@incisivemedia.com>]
Sent: Thursday, May 28, 2009 4:00 PM
To: jea@bellsouth.net
Subject: trump's reply

Too late for my article yesterday and today, but here's what his vp sent to me a short while ago.

Also, please keep me posted of further developments, particularly the state's reply. Thanks.

Neither The Trump Organization, nor its affiliates, are the owners or developers of the property in Fort Lauderdale. As was disclosed to buyers in their purchase agreements, Trump Marks Fort Lauderdale LLC licensed the “Trump” name to the owner of the property, SB Hotel Associates, LLC, for purposes of identifying the property, subject to the terms of a license agreement, which may be terminated according to its terms. The granting of such a license is no different from the way that numerous other luxury hotel brands operate. Additionally, Trump International Hotels Management LLC was retained to manage the operations of the hotel, subject to the terms of a management agreement. Pursuant to the terms of these agreements, Trump Marks Fort Lauderdale LLC and Trump International Hotels Management LLC have done everything to fulfill their obligations, and continue to do so. Similarly, we look to the owner to complete the building and meet its obligations to all parties, including the buyers.

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY
OPERATING AGREEMENT
OF
STILLMAN BAYROCK MERRIMAC LLC**

This **AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT** (the "Agreement") is entered into and shall be effective as of October __, 2004, by and among **STILLMAN MERRIMAC LLC**, a Delaware limited liability company ("Stillman"), **BAYROCK MERRIMAC LLC**, a Florida limited liability company ("Bayrock"), and **MOTWANI MERRIMAC LLC**, a Florida limited liability company ("Motwani"; and, together with Stillman and Bayrock, each referred to individually as a "Class A Member" and collectively as the "Class A Members"), and **TRUMP LAUDERDALE DEVELOPMENT NO. 2 LLC**, a Florida limited liability company (the "Class B Member").

ARTICLE I

ORGANIZATION AND DEFINITIONS

1.01 Organization. Stillman Bayrock Merrimac LLC (the "Company"), a limited liability company, was formed through the filing of the Charter with the Department of State of Delaware (the "Charter State") and was initially governed by that certain Limited Liability Company Operating Agreement of Stillman Bayrock Merrimac LLC, dated as of June 9, 2004, between Stillman and Bayrock (the "Original Operating Agreement"). The Original Operating Agreement, however, is hereby amended and restated in its entirety so that the terms, covenants, agreements, rights, obligations and conditions contained in this Agreement shall supercede and control the terms, covenants, agreements, rights, obligations and conditions of the Original Operating Agreement and, upon execution and delivery by all the parties hereto, the Original Operating Agreement shall be of no further force and effect. The Company shall be governed by the laws of the Charter State in accordance with this Agreement.

1.02 Principal Office; Registered Office; Registered Agent. The principal and registered office of the Company shall be at such location as may be determined by the Board. The registered agent of the Company will also be determined by the Board. The initial principal office and initial registered office and registered agent shall be as set forth in the Charter, and shall remain unchanged until changed by the Board.

1.03 Term. The Company was formed on the Filing Date, and will continue perpetually, unless it is sooner terminated under this Agreement.

1.04 Certain Definitions and Agreements. As used in this Agreement, the following terms have the meanings ascribed to them in this Section 1.04 and include the plural as well as the singular number:

"Original Operating Agreement" has the meaning set forth in Section 1.01 of this Agreement.

"Percentage Interest" means, with respect to a Class A Member, the quotient of the number of Units held by such Class A Member, divided by the total number of Units held by all of the Class A Members.

"Permitted Transfer" shall mean a Transfer of Units by a Class A Member (a) upon the death of a Class A Member by intestate succession, will or similar document executed by the Class A Member, or while such Class A Member is living, to a Family Member of such Class A Member, or (b) to an Affiliate of such Class A Member.

"Person" means a natural person, corporation, trust, partnership, joint venture, association, limited liability company or other business or other legal entity of any kind.

"Profit" or "Loss" means, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments: (i) any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profit or Loss shall be added to such taxable income or loss; (ii) any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv) shall be subtracted from such taxable income or loss; (iii) in lieu of the depreciation, amortization or other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Book Depreciation for such Fiscal Year; (iv) Book Gain or Book Loss shall be taken into account in lieu of any tax gain or tax loss recognized by the Company; and (v) items of income, gain, loss, or deduction allocated separately pursuant to Section 4.04 hereof shall be excluded from the computation of taxable income or loss. If the Company's taxable income or loss for such Fiscal Year, as adjusted in the manner provided above, is a positive amount, such amount shall be the Company's Profit for such Fiscal Year, and if negative, such amount shall be the Company's Loss for such Fiscal Year.

"Pro Rata" means in the proportion that the item being measured for each Class A Member bears to the total of all such items for all Class A Members for whom a contribution, distribution, or allocation is due or being made, shared, or determined.

"Project" means a condominium hotel of approximately 150 to 350 units to be developed on the Property, which may include commercial, restaurant, spa and other amenities-based space to provide services to the hotel.

"Project Costs" means all reasonable and necessary costs incurred by the Property Owner in connection with the development of the Project including, without limitation,

engineering, architectural and other professional fees and expenses, attorneys fees and expenses, amounts required to be funded under the Land Contract prior to the acquisition of the Property by the Property Owner and all other costs and expenses deemed appropriate or desirable by the Board in connection therewith.

"Project Fees" means any fees payable to the Company, any Member of the Company or any Affiliate thereof by the Property Owner or any Affiliate thereof for services provided by the Company to the Property Owner in connection with the development of the Project.

"Property" means the real property described on Exhibit "B" hereto, located at 551 North Fort Lauderdale Beach Boulevard, Fort Lauderdale, Broward County, Florida 33304.

"Property Closing Date" means the date of the closing of the acquisition of the Property by the Company pursuant to the Land Contract.

"Property Owner" means SB Hotel Associates LLC, a Delaware limited liability company, its successors and assigns.

"Property Owner Operating Agreement" means the Limited Liability Company Agreement of Property Owner, as amended from time to time.

"Sellers" means Beach Breeze Resort Motel, Inc., Merrimac, Inc. and Gold Coast Merrimac Beach Hotel, Inc.

"Supplemental Agreement" means that certain Supplemental Agreement, dated as of October 1, 2004, by and among Stillman Bayrock Merrimac LLC, Bayrock Group LLC, Bayrock Merrimac LLC, Beach Breeze Resort Motel, Inc., Merrimac, Inc., Goldcoast Merrimac Beach Motel, Inc., and Ramola Motwani.

"Tax Matters Member" means such person as may be designated by the Board.

"Transfer" means, as a noun, any direct or indirect, voluntary or involuntary, exchange, sale, bequeath, pledge, mortgage, hypothecation, encumbrance, distribution, transfer, gift, assignment or other disposition or attempted disposition of, and, as a verb, directly or indirectly, voluntarily or involuntarily, to exchange, sell, bequeath, pledge, mortgage, hypothecate, encumber, distribute, transfer, give, assign or in any other manner whatsoever dispose or attempt to dispose of.

"Treasury Regulations" and **"Regulations"** means the regulations of the United States Treasury Department pertaining to the Code, as amended, and any successor provision thereto.

"Trump" means the Trump Organization.

"Units" means units of the Company issued to each Class A Member hereunder, which represent each Class A Member's Company Interest and Company Rights in the Company. Units shall not be evidenced by certificates and their ownership is evidenced solely by this Agreement and by the records of the Company. The number of Units issued to each Class A Member is set forth in Exhibit "A" hereto.

"Unit Resales" means brokerage commissions payable to Stillman or an Affiliate of Stillman in connection with the sale of those condominium units at the Project that were initially under contract for sale with non-affiliated third party purchasers where the purchasers defaulted and the deposits held under such contracts were retained by Company as liquidated damages.

ARTICLE II

PURPOSES AND BUSINESS OF THE COMPANY; RIGHTS OF THE COMPANY

2.01 Purposes of the Company. The Company has been formed for the purpose of (i) acting as a Member in SB Hotel Associates LLC, a Delaware limited liability company, (ii) directly or indirectly, acquiring, managing, constructing, developing and selling (all or any portion of) the Property and Project and doing all things necessary and/or required in connection therewith, and (iii) the carrying on of any other lawful business or purpose permitted to be carried on by limited liability companies under Applicable Law in connection therewith.

2.02 Authority of the Company. The Company, consistent with and subject to the provisions of this Agreement and all applicable laws, is empowered and authorized to do any and all acts and things incidental to, or necessary, appropriate, proper, advisable, or convenient for, the furtherance and accomplishment of its purposes.

2.03 Special Limitations. Notwithstanding the authority of the Company set forth in Section 2.02 or any other provision of this Agreement, the Company shall not:

- (a) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation; or
- (b) fail to file its own tax returns; or
- (c) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or Person or to conduct its business solely in its own name in order not to mislead others as to the identity with which such other party is transacting business; or

however, without the written approval of the Board, Bayrock will not enter into any agreements with Trump which will be binding on the Property, the Property Owner, or the Company. Stillman also agrees that it will not directly or indirectly enter into a joint venture, partnership or other arrangement or transaction with Trump during the 36-month period following the date hereof without offering Bayrock the opportunity to participate in the transaction on terms reasonably similar to those provided to Stillman in such transaction; provided, however, that with respect to the contemplated Singer Island Days Inn project which Stillman may pursue with Trump, Bayrock shall, if such project goes forward, have a right to purchase an interest equal to 25% of Stillman's interest in such project on terms reasonably similar to those provided to Stillman in such project. Bayrock further agrees that, without written approval from Stillman (which approval may be withheld in the exercise of its sole discretion), Bayrock will not enter into any other arrangements with Trump relating to a hotel or condominium development in Ft. Lauderdale, Florida other than the presently ongoing Ocean/Beach Club project.

13.10 Arm's Length Negotiations. Each party herein expressly represents and warrants to all other parties hereto that (a) before executing this Agreement, said party has fully informed itself of the terms, contents, conditions and effects of this Agreement; (b) said party has relied solely and completely upon its own judgment in executing this Agreement; (c) said party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) said party has acted voluntarily and of its own free will in executing this Agreement; (e) said party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's length negotiations conducted by and among the parties and their respective counsel.

ARTICLE XIV

CLASS B MEMBER

14.01 Fees. The Class A Members acknowledged that the Class B Member is consulting with the Company and providing advice from time to time upon the reasonable request of the Company (and not on a full time basis) with respect to the development and construction of the Project. The Class B Member acknowledges that, other than providing such advice, the Class B Member has neither any voting rights nor any management or control rights with respect to any aspect of the Company, the Property Owner, the Property or the Project. The Class B Member shall receive compensation for its services hereunder in an amount (hereinafter called the "Fee") equal to one and one-half (1.5%) percent of all "hard and soft costs" (as hereinafter defined) of construction of the Project as set forth in the development budget for the Project (as the same may be modified from time to time, the "Development Budget"), but excluding (i) the Property Owner's cost to acquire the Property; and (ii) fees payable to the Class B Member hereunder and to any affiliate of the Class B Member rendering services to the Project. The Fee shall be calculated and paid to the Class B Member as follows:

(i) The amount of \$960,000 (hereinafter called the "Initial Fee Payment") shall be paid to the Class B Member, on account of the Fee, commencing on the "Commencement Date" (as hereinafter defined), as follows: (a) \$15,000 on the first day of each month (prorated for the first month) for twenty four (24) consecutive months; and (b) \$25,000 on the first of each month for the next succeeding twenty four (24) consecutive months;

(ii) The balance of the Fee (hereinafter called the "Final Fee Payment") shall be paid to the Class B Member as follows:

(a) 75% of the Final Fee Payment - 90 days following the date of Substantial Completion of the Project; and

(b) 25% of the Final Fee Payment - the earlier of (x) 5 business days following the date of Final Completion of the Project, or (y) 18 months following the date of Substantial Completion of the Project.

(iii) The Class A Members and the Class B Member acknowledge and agree that the amount of the Fee shall be increased or decreased (and the Final Fee Payment shall be appropriately adjusted) based upon increases and decreases, from time to time, in the Development Budget.

(iv) For the purposes of this Agreement:

(a) the term "hard and soft costs" shall mean all costs and expenses relating to the design, development, zoning, financing and construction of the Project as set forth in the Development Budget, as amended from time to time;

(b) the term "Substantial Completion" shall mean the issuance of a temporary certificate of occupancy (or local governmental equivalent) for at least two-thirds of the Project; and

(c) the term "Final Completion" shall mean the last to occur of (i) issuance of a certificate of final completion by the architect for the Project, (ii) final inspection of the Project by the appropriate governmental authority or agency, (iii) issuance of a permanent certificate of occupancy therefor for the Project, and (iv) the close out of all construction contracts applicable to the Project, including receipt of final lien releases from all contractors, subcontractors, suppliers and other parties otherwise entitled to record claims of lien against the Property (to be confirmed with local counsel); provided, however, if Final Completion shall fail to occur within 36 months following the commencement of construction of the Project, through no fault of the Class B Member, the Final Completion shall be deemed to have occurred on the last day of such 36th month.

14.02 Rights of the Class B Member. Except as expressly provided in Section 8.02 and this Article 14, the Class B Member shall not have any rights or obligations under the terms of this Agreement and the Class B Member hereby waives any and all rights granted to a member of a limited liability company under the laws of the Charter State. Accordingly, the Class B Member shall not have any rights or obligations with respect to the profits, losses and/or distributions of the Company and the management or control of the Company's business or affairs. The Class B Member shall not have any power to represent, act for, sign for or bind the Company. Notwithstanding anything to the contrary contained in this Agreement or under the laws of the Charter State or the laws of any state or government agency having jurisdiction over this Agreement, neither the Company nor any member or manager hereunder, including, without limitation, the Class A Members, the Board and/or the Managers shall owe any fiduciary obligation to the Class B Member. The Class B Member's only rights under this Agreement are as expressly set forth in Section 8.02 and this Article 14.

14.03. Amendment to Article XIV. Notwithstanding anything to the contrary contained in this Agreement, this Article XIV may not be amended without the unanimous written consent of the Class A Members and the Class B Member.

14.04. Confidentiality. Neither the Company, any Class A Member nor the Class B Member shall, except as required by any law, court order or subpoena or in connection with the enforcement of this Agreement or any other agreements entered into by the parties and/or the Property Owner and the Class B Member, disclose the terms of this Article 14 or any other transactions entered into between the Company and/or the Property Owner with the Class B Member to anyone other than a party's employees, agents, representatives, potential lenders or investors, attorneys, consultants or other professionals. Each party shall notify the other parties hereto of any court order or subpoena received by such party requiring disclosure of such information. Each party shall take reasonable measures to avoid any unintentional or inadvertent disclosure of such information to any unauthorized person by any of its employees, agents, representatives or attorneys. Further, Company shall cause Property Owner to request confidentiality agreements from its and the Property Owner's lenders on terms reasonably similar to those set forth herein, provided, however, it shall not be a default or breach of either the Company's or the Property Owner's obligations hereunder in the event such lender or lenders refuse to execute and deliver such confidentiality agreements.

14.05 Insurance. The Company shall cause the Class B Member and Donald J. Trump to be named as additional named insureds on any liability insurance policies procured by the Company or the Property Owner.

[Signatures On Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

STILLMAN MERRIMAC LLC,
a Delaware limited liability company

By: _____
Name: Roy Stillman
Title: Manager

BAYROCK MERRIMAC LLC,
a Florida limited liability company

By: **BAYROCK GROUP LLC,**
a New York limited liability company

By: _____
Name: Tevfik Arif
Title: Sole Member

MOTWANI MERRIMAC LLC,
a Motwani limited liability company

By: _____
Name: _____
Title: _____



IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

09-01853 CACE (07)

CASE NO.: 08-60702 CACE (07)

(Consolidated)

MATTHEW ABERCROMBIE, *et al.*,

Complex Litigation Unit

Plaintiffs,

v.

SB HOTEL ASSOCIATES, LLC, BAYROCK
GROUP, LLC, DONALD TRUMP,
ROY STILLMAN, CHICAGO TITLE INSURANCE,
COMPANY, and CORUS CONSTRUCTION
VENTURES, LLC.

Defendants.

THIRD AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

The Plaintiffs sue the Defendants and state:

INTRODUCTION

1. The Plaintiffs are the preconstruction contract purchasers of 53 units in a hotel-condominium project that was never completed by the developers. This action seeks to recover earnest money deposits paid for the unfinished units. The project is known as “Trump International Hotel & Tower” on Fort Lauderdale Beach (the “Project” or “Trump Tower”).

2. The developers of the Project were Donald Trump, Roy Stillman (“Stillman”), Bayrock Group, LLC (“Bayrock”), and SB Hotel Associates (“SB Hotel”), and may be referred to collectively herein as the “Developers.” The Developers failed to complete construction of the Project, failed to provide the promised amenities, and failed to secure a hotel operator after a rift in the relationship between Donald Trump and the remaining developers.¹

¹ Plaintiffs have entered into a settlement agreement with Stillman, Bayrock, SB Hotel, and Chicago Title Insurance

Jurisdiction and Parties

3. This is an action for damages in excess of \$15,000.00, exclusive of interest, costs and attorneys' fees, arising from earnest money deposits paid towards the purchase of real property located in Broward County, Florida.

The Plaintiffs

4. Plaintiffs Domenico Bartucca and Antonia Bartucca are individuals over eighteen years of age residing in New York, and are otherwise *sui juris*.

5. Plaintiffs Joseph Bartucca is an individual over eighteen years of age residing in New York, and are otherwise *sui juris*.

6. Plaintiff Michael Batt ("Batt") is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

7. Plaintiff Richard Bett ("Bett") is an individual over eighteen years of age residing in Canada and is otherwise *sui juris*.

8. Plaintiff Frank Borzen ("Borzen") is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

9. Plaintiff Brice Brown ("Brown") is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

10. Plaintiff Brad Campbell ("Campbell") is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

11. Plaintiffs George Cather and Cathy Cather (collectively "Cather") are individuals over eighteen years of age residing in Broward County, Florida, and are otherwise *sui juris*.

Company ("CTIC"), and accordingly, these former Defendants will no longer be referred to as "Defendants" herein.

12. Plaintiff Ariel Cinxo and Albana Cinxo (“Cinxo”) is an individual over eighteen years of age residing in Naples, Florida, and is otherwise *sui juris*.

13. Plaintiff Rosaline Clarke (“Clarke”) is an individual over eighteen years of age residing in St. Thomas, Barbados and is otherwise *sui juris*.

14. Plaintiff Richard Curtis (“Curtis”) is an individual over eighteen years of age residing in New York and is otherwise *sui juris*.

15. Plaintiff Brian Daly (“Daly”) is an individual over eighteen years of age residing in Chicago, Illinois, and is otherwise *sui juris*.

16. Plaintiff Alex Davis (“Davis”) is an individual over 18 years of age residing in Michigan, and is otherwise *sui juris*.

17. Plaintiff Carmine D’Ellenna (“D’Ellenna”) is an individual over 18 years of age residing in Rhode Island, and is otherwise *sui juris*.

18. Plaintiff Xhentil Demiraj (“Demiraj”) is an individual over eighteen years of age residing in Naples, Florida, and is otherwise *sui juris*.

19. Plaintiffs Stephen Derienzo and Rosemarie Derenzio are individuals over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

20. Plaintiff Simon Dolmaian (“Dolmaian”) is an individual over eighteen years of age residing in New York, and is otherwise *sui juris*.

21. Plaintiff Elizabeth Driggs (“Driggs”) is an individual over eighteen years of age residing in Naples, Florida, and is otherwise *sui juris*.

22. Plaintiff Richard Everett (“Everett”) is an individual over eighteen years of age residing in Connecticut, and is otherwise *sui juris*.

23. Plaintiffs Christian Felden and Victoria Felden (collectively “Felden”) are individuals over eighteen years of age residing in Naples, Florida, and are otherwise *sui juris*.

24. Plaintiff Todd Fine (“Todd Fine”) is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

25. Plaintiff Jamie Fine (“Jamie Fine”) is an individual over eighteen years of age residing in Broward County, Florida, and is otherwise *sui juris*.

26. Plaintiffs Boyd Goldwin and Loise Goldwin (collectively “Goldwin”) are individuals over eighteen years of age residing in California, and are otherwise *sui juris*.

27. Plaintiff Brian Halcrow dba Tahiti Investments (“Halcrow”) is an individual over eighteen years of age residing in Illinois, and is otherwise *sui juris*.

28. Plaintiff James Halcrow dba Tahiti Investments (“Halcrow”) is an individual over eighteen years of age residing in Illinois, and is otherwise *sui juris*.

29. Plaintiff John Jaquet (“Jaquet”) is an individual over 18 years of age residing in Leon County, Florida, and is otherwise *sui juris*.

30. Plaintiff Gezim Kello (“Kello”) is an individual over 18 years of age residing in Naples, Florida, and is otherwise *sui juris*.

31. Plaintiff Jeff Kim (“Kim”) is an individual over eighteen years of age residing in Texas and is otherwise *sui juris*.

32. Plaintiff Jay Kimmel (“Kimmel”) is an individual over eighteen years of age residing in Broward County, and is otherwise *sui juris*.

33. Plaintiffs Nick Lally and Allison Lally (“Lally”) are individuals over eighteen years of age residing in Maryland and is otherwise *sui juris*.

34. Plaintiff Richard Mahoney (“Mahoney”) is an individual over eighteen years of age residing in Canada and is otherwise *sui juris*.

35. Plaintiffs James Malo and Aimee Malo is an individual over eighteen years of age residing in Naples, Florida, and is otherwise *sui juris*.

36. Plaintiff Neim Malo (“Neim Malo”) is an individual over eighteen years of age residing in Collier County, Florida, and is otherwise *sui juris*.

37. Plaintiffs Ourim Malo and Paige Malo (collectively “Ourim and Page Malo”) are individuals over eighteen years of age residing in Naples, Florida, and are otherwise *sui juris*.

38. Plaintiff Gezim Malolli (“Malolli”) is an individual over eighteen years of age residing in Collier County, Florida, and is otherwise *sui juris*.

39. Plaintiffs George and Christine Marble (collectively “Marble”) are individuals over eighteen years of age residing in Litchfield, New Hampshire, and are otherwise *sui juris*.

40. Plaintiffs Jose Martinez and Carla Estopinan (collectively “Martinez”) are individuals over eighteen years of age residing in Venezuela, and are otherwise *sui juris*.

41. Plaintiffs Joseph Massaro and Susan Massaro (collectively “Massaro”) are individuals over eighteen years of age residing in New York, and are otherwise *sui juris*.

42. Plaintiffs Ray and Gwen Nugent (collectively “Nugent”) are individuals over eighteen years of age residing in Naples, Florida, and are otherwise *sui juris*.

43. Plaintiffs Pat O’Hara and Mary O’Hara (collectively “O’Hara”) are individuals over eighteen years of age residing in New York, and are otherwise *sui juris*.

44. Plaintiffs Arjan and Violeta Rama (collectively “Rama”) are individuals over eighteen years of age residing in Naples, Florida, and are otherwise *sui juris*.

45. Plaintiffs Diana Ramsook and Secenarine Ramsoon (“Ramsook”) are individuals over eighteen years of age residing in Broward County, Florida and is otherwise *sui juris*.

46. Plaintiff Dr. Cyril Reifer (“Reifer”) is an individual over eighteen years of age residing in St. Thomas, Barbados and is otherwise *sui juris*.

47. Plaintiff Marc Renaud (“Renaud”) is an individual over eighteen years of age residing in Canada and are otherwise *sui juris*.

48. Plaintiff Sheila Rousseaux (“Rousseaux”) is an individual over eighteen years of age residing in Maryland and is otherwise *sui juris*.

49. Plaintiff Stevie Salas (“Salas”) is an individual over eighteen years of age residing in California and is otherwise *sui juris*.

50. Plaintiffs Frank and Angela Schifano (collectively “Schifano”) are individuals over eighteen years of age residing in Florida, and are otherwise *sui juris*.

51. Plaintiff Naraine Seecharan (“Seecharan”) is an individual over eighteen years of age residing in Broward County, Florida and is otherwise *sui juris*.

52. Plaintiff James Shin (“Shin”) is an individual over eighteen years of age residing in Broward County, Florida and is otherwise *sui juris*.

53. Plaintiff Barry Silverman (“Silverman”) is an individual over eighteen years of age residing in New York and is otherwise *sui juris*.

54. Plaintiff William Skinner (“Skinner”) is an individual over eighteen years of age residing in New York, and is otherwise *sui juris*.

55. Plaintiff Todd Sussman (“Sussman”) is an individual over eighteen years of age residing in Broward County, Florida and is otherwise *sui juris*.

56. Plaintiff Robert Tardif, trustee of the United States Bankruptcy Court for the Middle District of Florida, is the trustee of the bankruptcy estate of Solli Malo (“Soli Malo”), and is otherwise *sui juris*.

57. Plaintiff Alina Truhan (“Truhan”) is an individual over eighteen years of age residing in Broward County, Florida and is otherwise *sui juris*.

58. Plaintiffs Ravij Uppal and Rekha Uppal (collectively “Uppal”) are individuals over eighteen years of age residing in Maryland and are otherwise *sui juris*.

59. Plaintiffs Carlos and Maria Vasallo (collectively “Vasallo”) are individuals over eighteen years of age residing in Naples, Florida, and are otherwise *sui juris*.

60. Plaintiff Eric Weschke (“Weschke”) is an individual over eighteen years of age residing in New York and is otherwise *sui juris*.

61. Plaintiffs Tom Wolf and Barbara Wolf (collectively “Wolf”) are individuals over eighteen years of age residing in Broward County, Florida, and are otherwise *sui juris*.

62. Plaintiff Paul Yanoshik (“Yanoshik”) is an individual over eighteen years of age residing in Maryland and is otherwise *sui juris*.

63. Plaintiffs Paul and Gita Ziegelbaur (collectively “Ziegelbaur”) are individuals over eighteen years of age residing in Virginia and are otherwise *sui juris*.

The Defendants

64. Defendant Donald J. Trump (“Trump”) is an individual over eighteen years of age, who upon information and belief, is a resident of New York, and is otherwise *sui juris*.

Trump is one of the developers of the Project.

65. Defendant Corus Construction Ventures, LLC (“CCV”) is the successor to Corus Bank, N.A., is the owner of real property located in Broward County, Florida (the Project), and is otherwise *sui juris*. CCV is being sued herein only in Count XIV, seeking imposition and foreclosure of an equitable vendee’s lien claim.

Factual Allegations

The Project and Its’ Developers

66. Defendant Donald J. Trump is a real estate developer and television celebrity, and likely the most famous real estate developer in the world. As a result of Trump’s track record of success with prior real estate development projects, together with the recognition associated with his name, Trump’s affiliation with a real estate project increased the value of the project significantly.

67. Sometime in 2003, Trump became seriously interested in developing a condominium hotel along A-1A in Fort Lauderdale, Florida. In December 2003, the Sun-Sentinel newspaper reported that “New York developer Donald Trump may be eyeing property on Fort Lauderdale Beach....on the site of the Gold Coast and Merrimac Hotels.” This is the site of the Project.

68. Thereafter, Defendant Trump, together with Stillman, and Bayrock, formed a relationship and joint venture for the purpose of developing the Project. They, or some combination thereof, formed SB Hotel in September 2004.

69. In October 2004, SB Hotel acquired the land where the Project is located. Shortly thereafter, it submitted building plans to the City of Fort Lauderdale (the “City”) for approval. On February 15, 2005, the City commission approved the plans for the Project.

70. Almost immediately thereafter, Defendant Trump and Stillman, Bayrock, and SB Hotel began actively marketing the Project as a luxury hotel and condominium offering unsurpassed

ocean-front living on the beach in Fort Lauderdale, Florida. The Project was marketed with the Trump name, and, as expected, at the substantial premiums associated with the Trump name.

71. The project was promoted to the public as an ultra-luxury, oceanfront, 301-unit, 24-story condominium hotel under the name “Trump International Hotel & Tower”. The “Trump” name enabled units to command a premium of at least \$200 per square foot, and the average contract price for a unit in the Trump Condo Hotel was \$1,136 per square foot.

Representations About the Identity of the Developers

72. To assist in selling condominium units to the public, Defendant Trump, together with Stillman, Bayrock, and SB Hotel, went on a media blitz in 2005, prior to offering condominium sales contracts to the public in December 2005. This included participating in advertising and articles in at least **13** different publications.

73. The blitz was all about Trump and luxury. The common theme was that Trump, in partnership with Stillman, and Bayrock, were the developers of the Project, that Trump was the preeminent luxury real estate developer in the world, and that if purchasers wanted to buy a first class condominium unit featuring unsurpassed luxury and amenities, they should purchase property developed by Trump.

74. Indeed, presenting this to the public as a Trump development had exactly the intended effect – condominium units sold for hundreds of thousands of dollars more than other new condominium hotels being developed in Fort Lauderdale at the same time.

75. Samples from the media blitz, intended, in part, to convince the consuming public, including Plaintiffs, that Trump was the developer of the Project, were provided to Plaintiffs and were incorporated into brochures and promotional materials for the Project, many of which were

given to Plaintiffs, including the following:

- a. Florida Trend Magazine (May 1, 2005): Florida Trend published news stating: “Real estate developer Donald Trump has announced plans to build a 298-unit luxury condominium/ hotel in Fort Lauderdale Beach. The Trump International Hotel & tower is scheduled for completion in February 2007.”
- b. Haute Living Magazine (Summer 2005 Issue): The cover featured a picture of Trump with the caption “A Donald Trump Exclusive,” He’s betting big on South Florida. Seven reasons why you should too.” Pages 4-5 feature full page advertisements for the Project, stating “Donald J. Trump is pleased to announce the first Trump International Hotel & Tower in South Florida...One of only four Donald J. Trump Signature condominium hotels in North America...”

The feature article is an interview of Trump with a full page picture of Donald Trump, arms crossed, and captioned “Florida, you’re hired!” The lead-in states that Trump is “erecting seven landmark developments” in South Florida. Thereafter Trump answers questions such as “What made you choose Florida as the site for such a significant number of Trump Developments?” and “What other characteristics would you say are unique to Trump Developments?” Trump responds in kind, referring to “my properties” and making statements such as “Of course, having the Trump name behind a project also helps.” Never does Trump state or imply that he is NOT the developer of the Project. To the contrary, every answer reinforces that he is indeed the developer.

Immediately following the Trump Interview is a two-full page advertisement for the Project quoting Stillman as stating “the combined expertise of this development team...” and “the results of building a Trump project are already outstanding.”

A portion of the advertisement is titled “The Developers” and states “behind the \$200 million hotel-condominium edifice is real estate mogul Donald J. Trump and prominent New York-based developer Roy Stillman in partnership with Tevfik Arif’s internationally recognized resort and hotel development company Bayrock Group, LLC.” Tevfik Arif, the principal of Bayrock, is then quoted as saying: “Bayrock Group is proud to partner with Donald J. Trump on this exciting project...”

- c. Architectural Digest (July 2005): The Project was featured, identifying Donald Trump and Roy Stillman as the “Principals/ Owners” and Bayrock Group, LLC as the developer. Bayrock representative Jody Kriss was quoted as saying: “Very attractive will be the alliance of two leading development firms...this creates a tightly woven infrastructure of finance, operations and development aptitude...” This promotional article was given to purchasers and potential purchasers.
- d. Miami Herald Home & Design (March 13, 2005): The Project was featured, with the

article stating “Real estate developer Donald J. Trump, New York-based developer Roy Stillman and hotel development company called Bayrock Group are partners in the venture.” This promotional article was given to purchasers and potential purchasers.

- e. Avenue Magazine (April 2005): This magazine featured a “developer profile” of Donald Trump, titled “An Ace in the Hole” with photographs of Trump, Stillman and an artist’s rendering of the Project. The article identifies the Project as “...Donald J. Trump’s first signature project in Broward County,...” Trump is also quoted as saying “Florida has been a great place to develop.”

The article states: “While his name precedes his work, Trump has also managed to assemble an incomparable team to back-up his reputation. The masters of the development trade have all converged to work” on the Project. Stillman is identified as the “co-developer.” The article further states that “Bayrock Group,...will also be contributing to the structuring and operation,” and refers to Trump, Stillman and Bayrock as part of a “development quartet” with “an unmatched caliber of expertise.” The article also compares the project to Trump’s projects in Chicago and New York, which were unquestionably developed by Trump. This promotional article was given to purchasers and potential purchasers.

- f. Ocean Drive Magazine (May 2005): This magazine featured “Trump Fort Lauderdale,” described as a 24 story condominium hotel by Donald J. Trump and Stillman Bayrock... This promotional article was given to purchasers and potential purchasers.
- g. Vacation Homes (Summer 2005): The magazine features the Project, stating that Donald Trump “is also expanding his empire on the east coast of Florida, where he already has several projects in the works. His newest undertaking is Trump International Hotel & Tower..., to be built in conjunction with New York Resort developer Roy Stillman and Bayrock Group, LLC.” This promotional article was given to purchasers and potential purchasers.
- h. Press Release (June 2005): Bayrock Group issued a statement that construction had begun on the Project. The release further stated that “Donald J. Trump is developing the property in partnership with Bayrock and New York-based developer Roy Stillman.” The news was reported in various publications and internet websites, including the “South Florida Business Journal (June 15, 2005),” “The Real Estate Weekly (June 22, 2005),” and “Hotels (August 1, 2005).”
- i. Dunn & Bradstreet (November 2005): In an article discussing the Trump/ Bayrock partnership on a project in Phoenix, it reports that Bayrock “has partnered with Trump on a number of condo/hotel projects, including the Trump International Hotel & Tower in Fort Lauderdale.”

- j. New Times (June 2006): Article reported that “[d]espite many Trump projects in South Florida, the Donald is an investor in only Trump Las Olas and Trump International.”

76. In addition to their media/ public relations marketing blitz, Trump repeatedly represented to the public, including Plaintiffs, that Trump, Stillman and Bayrock were the developers of the Project. These representations were made in correspondence, brochures, and marketing materials, including the internet website for the Development (www.TrumpFortLauderdale.com). Indeed, the Developers did virtually everything possible to convince Plaintiffs and the public that the Project was being developed Trump, Stillman and Bayrock, including the following:

- a. Sending a letter signed by Trump in his individual capacity to Plaintiffs, prior to signing purchase agreements, stating: “It is with great pleasure that **I present my latest development, Trump International Hotel & Tower, Fort Lauderdale**. This magnificent oceanfront resort offers the finest and most luxurious experience **I have created... I have selected Fort Lauderdale for my newest hotel** because I believe it offers the best location for a world-class development...” The letterhead is for “Trump International Hotel & Tower Fort Lauderdale,” which is neither a registered or licensed legal entity or fictitious name in Florida, Delaware or New York. A copy of this letter (the “Great Pleasure Trump Letter”) is attached hereto as Exhibit 1.
- b. Disseminating to Plaintiffs, again on letterhead for the nonexistent “Trump International Hotel & Tower Fort Lauderdale,” a letter stating “This is a new project, pre-construction, developed by DONALD TRUMP & ROY STILLMAN.” A copy of this letter is attached hereto as Exhibit 2.
- c. Sending a letter to Plaintiffs, signed by Donald Trump as President and CEO of The Trump Organization, stating, in part: “...**My newest development in Fort Lauderdale** will join only three other select properties that include the flagship Trump International Hotel & Tower in New York City, as well as Chicago and Las Vegas. My vision is to provide Fort Lauderdale with a landmark for the 21st century.” A copy of a sample letter is attached hereto as Exhibit 3.
- d. Sending Plaintiffs a letter on May 25, 2005, signed by Donald Trump, as “President and CEO,” again on letterhead for the nonexistent “Trump International Hotel & Tower Fort Lauderdale,” stating that “Trump International Fort Lauderdale is a Signature Trump Development...” A copy of a sample letter is attached hereto as Exhibit 4.

- e. Providing Plaintiffs and potential purchasers, prior to signing purchase agreements, with a 13" x 13" hard-bound 24 page book about the Project. The first page is ivory colored parchment paper with Donald Trump's signature emblazoned across the center in a size exceeding 3" x 5" and stating beneath it "A SIGNATURE DEVELOPMENT BY DONALD J. TRUMP." These are the only words appearing on the entire 13" x 13" page.

The book includes the Great Pleasure Trump Letter described above. The materials further describe the Project as "one of only four [Trump] International Hotel & Towers in the world" and "[o]ne of only four Donald J. Trump Signature condominium hotels in North America." It further states that the "Trump experience stands alone when it comes to luxury." The last page of the book states: "Only one developer could produce this landmark" under the Trump logo. Excerpts of this book are attached hereto as Exhibit 5.

- f. Stating in a brochure given to Plaintiffs in the fall of 2005 that "Donald J. Trump, Roy Stillman and Bayrock Group are proud to announce that construction has begun at Trump International Hotel & Tower Fort Lauderdale...." The brochure quotes Donald Trump as follows: "We are thrilled to begin construction on this magnificent oceanfront development, which will bring a new level of opulence and sophistication to South Florida."

This brochure also includes the Great Pleasure Trump Letter and states "The development has garnered particular attention as Mr. Trump's first project in Broward County,..." An excerpt of this brochure is attached hereto as Exhibit 6.

- g. Delivering to Plaintiffs, prior to their entry into purchase agreements, a brochure with a profile of Donald Trump, together with photos of his other developments, in promotional materials. This brochure includes the following statements:

"This signature development by Donald J. Trump will become a destination for many and a home for the select few."

The profile includes the following statements: "Donald J. Trump is the very definition of the American success story....Mr. Trump is committed to personal and direct involvement in everything that his name represents. This commitment has made him the preeminent developer of quality real estate known around the world.

"No other real estate company has established the international brand identity that Trump has created. In an industry where quality is sometimes difficult to discern, the Trump signature is known and trusted the world over as a name in luxury real estate." Excerpts of this brochure are attached hereto as Exhibit 7.

- h. The internet website for the Project, which has since been taken down, stated as follows:

“There is luxury...And there is the Trump experience. There is only one person who could create something this original.”

“This signature development by Donald J. Trump...”

The “Team” identified as being responsible for the development of the Property includes Donald Trump, Roy Stillman and the Bayrock Group, amongst others.

- i. In another full page promotional brochure given to Plaintiffs, the title states “There is Luxury...and then there is the TRUMP EXPERIENCE,” featuring a photo of a smiling Donald Trump, with his name and signature beside his picture.

The brochure states: “[b]ehind the project is real estate mogul Donald J. Trump and prominent New York-based developer Roy Stillman in partnership with internationally recognized resort and hotel development company Bayrock Group.” Trump is then quoted: “...We’ve found the best location in which to offer the finest and most luxurious five-star experience. This will truly be a landmark on Fort Lauderdale Beach.”

Stillman states: “Our combined expertise in development will ensure a level of architectural innovation not seen in South Florida.”

Tevfik Arif states: “Our alliance with two leading development firms creates a tightly woven infrastructure of finance, operations and development aptitude...”

- j. The telephone number for the Project listed in sales brochures and promotional materials incorporates the Trump name (866-TRUMP-01).
- k. An internet web site for Donald Trump’s projects includes a biography of Trump that states, in relevant part, that “Mr. Trump is also developing the super-luxurious Trump International Hotel & Tower Fort Lauderdale...” The biography is at <http://trumpsalesandleasing.com>), and an excerpt is attached hereto as Exhibit 8.

77. Trump’s involvement as a developer and promoter of the Project included the following:

- a) contributing to, appearing in, reviewing and authorizing press releases and advertising and promotional materials, a number of which prominently featured Trump touting the project, including letters to prospective unit buyers signed by him;

- b) overseeing and approving architectural plans, building design, and materials to ensure that construction lived up to the “Trump Standard;”
- c) attending promotional events for the Project;
- d) reviewing and approving the Prospectus and the Property Report and providing estoppel certificates to Corus Bank certifying that the representations in the Prospectus and Property Report were true and accurate;
- e) generating the budget and overseeing programming and planning, including personnel, for the hotel operation.

78. Trump was paid development fees pursuant to the confidential agreements comprising the development of the Project.

79. Sometime prior to May 2009, a rift developed between Trump and Bayrock, Stillman and SB Hotel. At that time, Donald Trump, for the first time, publicly denied being a developer of the Project. In response to press coverage of this Project, Trump claimed in May 2009, in relevant part:

“Neither The Trump Organization, nor its affiliates, are the owners or developers of the property in Fort Lauderdale. . . . we look to the owner to complete the building and meet its obligations to all parties, including the buyers.”

80. In fact, Trump and the other Developers had schemed to defraud contract purchasers, including the Plaintiffs, by misrepresenting that Trump was a Developer of, and investor in, the Project, when in fact he was not. The Developers actually disclosed this scheme to their construction lender, Corus Bank, in their construction loan request, stating:

Trump Lauderdale Development - No. 2, LLC is a class B member with no cash in the deal and with no profit participation in the deal...

* * *

...According to Stillman, Trump Lauderdale Development - No. 2, LLC’s inclusion in the organizational chart serves the purpose of being able to say that Donald Trump is an investor in the Project rather than just a licensor and operator...”

[Emphasis added]. An excerpt of the Corus Bank Loan Presentation is attached hereto as Exhibit 63.

Statements About Residency at the Project

81. On February 15, 2005, representatives of the Developers attended a Fort Lauderdale City Commission meeting, whereby the commission was to vote on whether to approve the Project. At the meeting, the City Attorney raised the concern that some hotel condominium projects were being marketed and used as residential condominium units – a use inconsistent with the zoning applicable to the Project.

82. Accordingly, the City attorney and commission announced plans to revise the City code to better define a “hotel” and to limit a condo hotel owner to staying in the Project no more than three times per year for no more than 30 days per visit. Consequently, purchasers in the Project would be able to stay in their units a maximum of 90 days per year under the proposed ordinance.

83. At that time, an agreement was made between SB Hotel and the City that if the Project was approved by the City Commission, the developer would restrict the future use of condo units at the Project to uses consistent with the planned changes to the City Code limiting use to 90 days per year.

84. SB Hotel agreed, and the Project was approved by the City. A copy of a Sun-Sentinel newspaper article documenting approval of the Project and plans to change the City code is attached hereto as Exhibit 10.

85. After approval of the Project by the City Commission, Trump engaged in the media blitz described above. However, during the media blitz, and in all letters, brochures and promotional

materials, it was never disclosed to Plaintiffs or potential purchasers that units would ultimately have length of stay restrictions.

86. During a promotional event for the Project on April 14, 2006, a reporter for the “New Times” interviewed Bayrock’s vice-president of marketing, Senada Adzem, about the length of stay restriction. Adzem stated that Developers would notify purchasers if required to do so, but that there was no notification requirement at that time. An excerpt of the article is attached hereto as Exhibit 11.

87. Although the Developers knew they agreed to subject the Project to the planned length of stay restrictions before entering into the first purchase agreement for the Project, they failed to disclose this to the Plaintiffs, and instead either stated or implied the contrary in letters, brochures and promotional materials. Examples include the following:

- (a) In Donald Trump’s Great Pleasure Trump Letter, he states “Never before has there been an opportunity to experience beachfront living like this.” See Exhibit 1.
- (b) Stating in a promotional brochure that the project “will become a destination for many and a home for the select few.” See Exhibit 7.
- (c) In a promotional brochure, stating that the project “will become a destination for many and a hotel residence for the select few... Designed to be the most sophisticated and luxurious beachfront living experience” See Exhibit 5.
- (d) Stating in another brochure that “our objective is to bring the very best in...luxury living...” See Exhibit 6.
- (e) In one promotional piece stating that “you may reside there 100% of the time – no restrictions.” A copy of this is attached hereto as Exhibit 12.
- (f) Similarly, in a letter sent to Plaintiffs on September 24, 2005, Defendants state “...we are excited to announce that your new residence will be built by ...” A copy of a sample letter is attached hereto as Exhibit 13.
- (g) After Plaintiffs signed their purchase agreements, the cover letter accompanying the executed agreement stated: “Dear Future Resident(s)... You are among a select group

of individuals fortunate enough to secure a residence in this one of a kind resort.” A copy of a sample letter is attached hereto as Exhibit “14.”

- (h) Similarly, Defendants sent Plaintiffs a letter in February - March, 2006 stating “...this marks the countdown to the completion of your new residence.” A copy of a sample letter is attached hereto as Exhibit 15.

88. The Developers never informed Plaintiffs that they could not reside in the units, or that the City intended to limit a unit owners’ length of stay to three – 30 day periods per year – which the Developers knew since at least February 2005 when this was discussed at the City commission meeting. Instead, in the purchase agreement, prospectus and proposed declaration of condominium, the Developer merely stated that “there is no assurance that a Unit owner...may establish a permanent residence at the Unit...,” or “utilize the Unit address for the purpose of student or voter registration, obtaining a driver’s license or registration of a motor vehicle,” and that the “the Unit may not qualify as the homestead of a unit owner.”

89. While the Developers were promoting the Project as “residences” in which purchasers could live year-round, they knew this was not the case. Indeed, on August 2, 2006, just months after Plaintiffs’ signed their purchase agreements, Stillman, on behalf of SB Hotel Associates, recorded a deed restriction prohibiting the units from being used as residences, and instead limiting each unit to a “hotel use” and requiring that all units be “managed by a hotel management company under a unified plan for hotel use...” A copy of the deed restriction is attached hereto as Exhibit 16.

90. Adding insult to injury, the Defendants never told purchasers or state regulators that they had done so. Florida’s condominium statutes (Chapter 718) required that notice of this restriction be included in the condominium offering documents as an amendment. Like with any other amendment to condominium offering documents, the Developers were also required to give all

purchasers notice of the change and 15 days to revoke their purchase agreements and receive their deposits back. Instead, the Developers ignored the law and did not amend the offering documents, and did not notify purchasers that Defendants had restricted the title that they would be receiving at closing.

The Plaintiffs

91. On January 13, 2006, Plaintiffs Jamie and Todd Fine and Todd Sussman executed a contract for the purchase of unit # 1609 of the Project and thereafter delivered approximately \$133,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 17.²

92. On January 17, 2006, Plaintiffs Joseph, Domenico and Antonia Bartucca executed contracts for the purchase of units # 402 and 808 of the Project and thereafter delivered approximately \$339,000.00 to the Developers. Copies of these agreements are attached hereto as Exhibit 18.

93. On January 20, 2006, Plaintiff Batt executed a contract for the purchase of unit #1011 of the Project and thereafter delivered approximately \$123,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit "19."

94. On January 12, 2006, Plaintiff Brice Brown executed a contract for the purchase of unit #708 of the Project and thereafter delivered approximately \$119,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 20.

95. On December 30, 2005, Plaintiff Borzen executed a contract for the purchase of unit #1601 of the Project and thereafter delivered approximately \$135,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 21.

² The entirety of this purchase agreement is attached. For the remaining units, only the first page and signature page are attached. The remainder of the purchase agreements are identical.

96. On December 28, 2005, Plaintiff Campbell executed a contract for the purchase of unit # 1608 of the Project and thereafter delivered approximately \$133,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 22.

97. On January 28, 2006, Plaintiffs George and Cathy Cather executed a contract for the purchase of unit #1018 of the Project and thereafter delivered approximately \$173,420.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 23.

98. On December 28, 2005, Plaintiff Daly executed a contract for the purchase of unit # 811 of the Project and thereafter delivered approximately \$156,600.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 24.

99. In December 2005, Plaintiff D'Ellenna executed a contract for the purchase of unit #1008 of the Project and thereafter delivered approximately \$134,500.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 25.

100. On December 19, 2005, Plaintiffs Stephen and Rosemary Derienzo executed a contract for the purchase of unit #303 of the Project and thereafter delivered approximately \$84,600.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 26.

101. On January 19, 2006, Plaintiff Dolmaian executed a contract for the purchase of unit #503 of the Project and thereafter delivered approximately \$90,600 to the Developers. A copy of this agreement is attached hereto as Exhibit 27.

102. On December 24, 2005, Plaintiff Everett executed a contract for the purchase of unit #717 of the Project and thereafter delivered approximately \$229,793.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 28.

103. On January 12, 2006, Plaintiffs Rosaline Clarke and Cyril Reifer executed a contract

for the purchase of unit #1906 of the Project and delivered approximately \$158,800.00 to the Developers. A copy of this Agreement is attached hereto as Exhibit 29.

104. On December 26, 2005, Plaintiffs Boyd and Loise Goldwin executed a contract for the purchase of unit # 1006 of the Project and thereafter delivered approximately \$145,600.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 30.

105. On January 13, 2006, Plaintiff s Brian Halcrow and James Halcrow d/b/a Tahiti Investments, executed a contract for the purchase of unit #1610 of the Project and thereafter delivered approximately \$144,400.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 31.

106. On December 16, 2005, Plaintiffs Ariel and Albana Cinxo and Xhentil (Jay) Demiraj executed a contracts for the purchase of units # 1603 and 2104 of the Project and paid deposits of approximately \$311,300.00 to the Developers. A copy of this purchase agreement is attached hereto as Exhibit 32.

107. On January 6, 2006, Plaintiff Kimmal executed a contract for the purchase of unit #1618 of the Project and thereafter delivered approximately \$176,900.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 33.

108. On December 12, 2005, Plaintiffs Martinez and Estopinan executed a contract for the purchase of unit #2201 of the Project and thereafter delivered approximately \$175,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 34.

109. On December 19, 2005, Plaintiffs Patrick and Mary O'Hara executed a contract for the purchase of unit # 1803 of the Project and thereafter delivered approximately \$181,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 35.

110. On January 3, 2006, Plaintiffs Diana and Sacenarine Ramsook executed a contract for the purchase of unit # 1807 of the Project and thereafter delivered approximately \$150,700.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 36.

111. On May 8, 2006, Plaintiffs Marc Renaud, Richard Bett and Richard Mahoney executed a contract for the purchase of unit #405 of the Project and thereafter delivered approximately \$99,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 37.

112. On January 3, 2006, Sheila Rousseaux, administrator, executed a contract for the purchase of unit #203 of the Project and thereafter delivered approximately \$81,600.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 38.

113. On January 3, 2006, Plaintiff Stevie Salas executed a contract for the purchase of unit #616 of the Project and thereafter delivered approximately \$128,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 39.

114. On December 20, 2005, Plaintiff Naraine Seecharan executed a contract for the purchase of unit #1205 of the Project and thereafter delivered approximately \$289,300.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 40.

115. On January 11, 2006, Plaintiffs James Shin and Jeff Kim executed a contract for the purchase of unit #1411 of the Project and thereafter delivered approximately \$129,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 41.

116. On February 21, 2006, Plaintiff s Barry Silverman and Richard Curtis executed a contract for the purchase of unit # 1901 of the Project and thereafter delivered approximately \$141,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 42.

117. On January 10, 2006, Plaintiff Alina Truhan executed a contract for the purchase of unit #1715 of the Project and thereafter delivered approximately \$126,300.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 43.

118. On January 16, 2006, Plaintiffs Rajiv and Rekha Uppal executed a contract for the purchase of unit #1118 of the Project and thereafter delivered approximately \$152,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 44.

119. On December 16, 2005, Plaintiff Weschke executed contracts for the purchase of units ## 906 and 2207 of the Project and thereafter delivered approximately \$302,000.00 to the Developers. A copy of these agreements are attached hereto as Exhibit 45.

120. On January 10, 2006, Plaintiffs Thomas and Barbara Wolf executed a contract for the purchase of unit #1904 of the Project and thereafter delivered approximately \$122,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 46.

121. On December 21, 2005, Plaintiff Paul Yanoshik executed a contract for the purchase of unit # 706 of the Project and thereafter delivered approximately \$119,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 47.

122. On March 2, 2006, Plaintiffs Paul and Gita Ziegelbaur executed a contract for the purchase of unit #2009 of the Project and thereafter delivered approximately \$141,000.00 to the Developers. A copy of this agreement is attached hereto as Exhibit 48.

123. On December 16, 2005, Plaintiffs Demiraj and Kello executed a contract for the purchase of unit # 1004 of the Project and delivered approximately \$118,000.00 to the Developers. A copy of this Agreement is attached hereto as Exhibit 49.

124. On December 27, 2005, Plaintiffs Aimee Malo and James Malo executed a contract

for the purchase of unit # 2307 of the Project and delivered approximately \$159,800.00 to the Developers. A copy of the Aimee Malo Agreement is attached hereto as Exhibit 50.

125. On December 22, 2005, Plaintiffs Neim Malo and Gezim Malolli executed contracts for the purchase of units # 1712 and # 1811 of the Project and delivered approximately \$339,600.00 to the Developers. Copies of the Agreements are attached hereto as Exhibit 51.

126. On December 22, 2005, Plaintiffs Ourim Malo and Paige Malo executed a contract for the purchase of unit # 2108 of the Project and delivered approximately \$159,800 to the Developers. A copy of the Agreement is attached hereto as Exhibit 52.

127. On December 21, 2005, Solli Malo executed a contract for the purchase of unit # 711 of the Project and delivered approximately \$156,600.00 to the Developers. The purchase agreement has been assigned to Robert Tardif, bankruptcy trustee for the Middle District of Florida. A copy of the Agreement is attached hereto as Exhibit 53.

128. On December 27, 2005, Ray and Gwen Nugent executed a contract for the purchase of unit #1711 of the Project and delivered approximately \$159,800.00 to the Developer. A copy of the Agreement is attached hereto as Exhibit 54.

129. On December 23, 2005, Arjan and Violeta Rama executed a contract for the purchase of unit #1206 of the Project and delivered approximately \$159,800.00 to the Developers. A copy of the Agreement is attached hereto as Exhibit 55.

130. On December 23, 2005 Maria and Carlos Vasallo executed a contract for the purchase of unit # 2004 of the Project and delivered approximately \$138,000.00 to the Developer. A copy of the Agreement is attached hereto as Exhibit 56.

131. On January 6, 2006, Frank and Angela Schifano executed a contract for the purchase

of unit #1016 of the Project and delivered approximately \$190,200.00 to the Developer. A copy of the Agreement is attached hereto as Exhibit 57.

132. On December 20, 2005, George and Christine Marble executed a contract for the purchase of unit # 1810 of the Project and delivered approximately \$150,700.00 to the Developer. A copy of the Agreement is attached hereto as Exhibit 58.

133. On December 22, 2005, Plaintiff Jaquet executed a contract for the purchase of unit # 904 of the Project and delivered approximately \$88,000.00 to the Developers. A copy of the Agreement is attached hereto as Exhibit 59.

134. Around December 2005, Plaintiff Lally executed a contract for the purchase of unit # 1209 of the Project and thereafter delivered approximately \$138,500.00 to the Defendants. A copy of the Agreement is attached hereto as Exhibit 60.

135. Around December 2005, Plaintiffs Massaro and Skinner executed contracts for the purchase of units ## 2011 and 2204 of the Project and thereafter delivered approximately \$287,000.00 to the Defendants. A copy of the Agreement is attached hereto as Exhibit 61.

136. On December 27, 2005, Plaintiff Driggs executed a contract for the purchase unit # 1704 of the Project and delivered approximately \$127,000.00 to the Defendants. Plaintiff does not have copies of this agreement in her possession.

137. On December 27, 2005, Plaintiff Felden executed a contract for the purchase of unit # 2008 of the Project and delivered approximately \$159,800.00 to the Developers. Plaintiffs do not have copies of this agreement in their possession.

138. Around December 2005, Plaintiff Alex Davis executed a contract for the purchase of unit # 1604 of the Project and thereafter delivered approximately \$100,000.00 to the Developers.

Davis does not have a copy of the agreement in his possession.

139. The boiler-plate language in the purchase agreements given to all Plaintiffs is identical, and therefore, these purchase agreements may be referred to collectively hereafter as the “Agreement.”

The Project Fails

140. While the yearly budget for the Project prepared by the Developers, including Trump, (which was provided to Plaintiffs as an exhibit to the Prospectus) purported to be sufficient to fund the promised ultra-luxury hotel operation described in the advertising and promotional materials, critical items for the hotel were omitted from the budget. It was actually millions of dollars off target. The effect was a dramatic shortfall between the disclosed operating budget and the actual costs necessary to operate the hotel under the “Trump Standard.”

141. In short, the hotel operation was insufficiently funded, but this fact was never disclosed to Plaintiffs. Trump knew, or should have known, that the budget for the hotel in the Prospectus provided to Plaintiffs was insufficient.

142. On May 5, 2009, Trump, through his daughter, Ivanka, sent a Notice of Default to Stillman and Bayrock, asserting a default by SB Hotel under the terms of the License Agreement, i.e., just one of the series of confidential documents governing Trump’s role in the development. The letter cited (1) the failure to construct the property according to the Trump Standard; and (2) insufficient funds to open, operate, and maintain the property in accordance with the Trump Standard, including opening the property and staffing and running the hotel.

143. The Trump default notice also warned against scheduling closings on individual units, stating that such an action would be ill-advised and misleading to unit buyers.

144. Approximately one week later, by letter sent certified mail and dated May 13, 2009 (the "May 13th Letter"), all of the unit buyers under contract, including Plaintiffs, were given approximately two weeks' notice of a walk-through inspection and closing date and time for their units. Phone numbers for a Greenberg Traurig closing agent (Mayra Mir) and developers' representative (Michele Conte) were provided. The letter also contained the following disclosures:

Opening of the Hotel. Given the uncharted climate that we are adapting to, and the impact that the economy has had on both the real estate and hospitality industries, we do not believe that the hotel operation will not open if purchasers have closed on fewer fifty percent (50%) of the units in the Condominium. Additionally, please note that given the governmental approvals for the Condominium, we do not believe that you will be permitted to occupy your unit or the Condominium until such time as the hotel opens. Lastly, we want to advise you that we received a Notice of Default from a Trump entity purporting to control our License Agreement with Donald J. Trump for the use of trademarks and tradenames associated with the hotel. We do not believe that there is merit to the claims set forth in the Notice of Default, but wanted you to be aware of the existence of their claim. We wanted you to be advised of these matters as you prepare for closing.

A copy of a sample letter is attached hereto as Exhibit 62.

145. The disclosures in the May 13th Letter did not appear in any of the offering documents provided to unit buyers, including the condominium Prospectus or the Property Report. Until the May 13th Letter, unit buyers, including Plaintiffs, were never informed that: (1) unit owners were so severely restricted in their rights to occupy and possess the units and the other portions of the condominium; (2) unit owners could be barred from occupying the units or other portions of the condominium in the event the hotel operation did not open; (3) a condition of the unit owners being able to occupy the units or other portions of the condominium was the opening of the hotel operation; (4) unit owners could be required to close on their units even if the hotel operation did not open; (5) a condition of the hotel opening was that 50% or more of the unit purchasers had to close; and (6) there was a Notice of Default under the License Agreement allowing the use of the

Trump name and trademark.

146. Had any of the foregoing facts, or the fact that the operating budget for the hotel was insufficient, or the agreements governing the role of Trump in the project, or the terms thereof including the conditions governing any of Trump's rights to exit the project, been disclosed, Plaintiffs would not have entered into the purchase agreements.

147. Although the May 13th Letter purported to schedule a closing on Plaintiffs' units, this was a sham because no closings was actually an impossibility. Corus Bank refused to allow any closings to occur because the Developers, as evidenced in the May 13th Letter, were not prepared to delivered the product promised to the buyers, a functioning hotel.

148. In fact, one unit buyer arrived at Greenberg Traurig's office with a cashier's check in hand, seeking to close on his unit. His funds were refused, and the entirety of his deposits were returned to him..

149. Corus Bank subsequently prepared to foreclose on the property, but before the bank could initiate foreclosure proceedings, the Federal Deposit Insurance Company ("FDIC") was appointed as Corus's receiver on September 11, 2009, due to the bank's critical undercapitalization. Instead, Defendant CCV, the successor-in-interest to the Project's construction lender, Corus Bank N.A. ("Corus"), initiated foreclosure proceedings on March 30, 2010, which resulted in a final judgment and foreclosure sale on March 14, 2012.

150. The Project was never completed. The condominium hotel was never created; no closings took place; and the declaration of condominium was never recorded in the public records of Broward County, Florida, a statutory and contractual condition precedent to completion and closing on the sale of units to Plaintiffs. Today, an unoccupied building sits on the Project site.

151. All conditions precedent to this action have occurred or been waived.

COUNT I- BREACH OF CONTRACT

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT II –ACTION TO VOID AGREEMENT PURSUANT TO CHAPTER 718, F.S.

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT III - F.S. § 718.503

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT IV – RESCISSION BASED ON F.S. § 718.506

(Dismissed by Trial Court)

COUNT V – FRAUD IN THE INDUCEMENT

(Against Trump)

152. Plaintiffs reallege paragraphs 1- 151 as if set forth herein.

153. Should the Court determine that Donald Trump was not one of the developers of the Project, then Defendant Donald Trump made false representations of material fact, including that he was the developer or one of the developers of the Project and an investor therein.

154. Should the Court determine that Donald Trump was one of the developers of the Project, Trump's agents falsely represented that purchasers could reside in the building full-time, as and omitted to inform Plaintiffs that the Developers had agreed to record a deed restriction that would expressly subject the units to subsequent rules by the City of Fort Lauderdale that would eliminate their right to reside full time in the Project.

155. Should the Court determine that Donald Trump was one of the developers of the Project, Trump and the other Developers also falsely represented that the budget disseminated to

Plaintiffs in the offering documents was sufficient to operate the Project as a hotel at the Trump Standard, when in fact they knew or should have known that this budget was woefully inadequate.

156. Trump's false representations were made and/or approved through the advertising and promotional materials for the Project given to the Plaintiffs, as described more particularly above.

157. Trump's false representations were made to the Plaintiffs prior to Plaintiffs entering into their purchase agreements, and were made to induce Plaintiffs to enter into the purchase agreements.

158. Trump made the above false representations for personal financial gain.

159. Trump knew that the above representations were false when made.

160. Plaintiffs entered into their purchase agreements in reasonable reliance on Trump's material misrepresentations, and would not have done so but for these misrepresentations.

161. Plaintiffs have been damaged by their reliance on Trumps false representations.

WHEREFORE Plaintiffs demand judgment against Defendant Donald Trump for fraud, and demand the return of all deposits, interest, costs, attorneys' fees, punitive damages, and such further relief as this Court deems just and proper.

COUNT VI – MISLEADING ADVERTISING – F.S. § 817.41

(Against Trump)

162. Plaintiffs reallege paragraphs 1-151 as if set forth herein.

163. Should the Court determine that Donald Trump was not one of the developers of the Project, Trump made and/or approved false representations of material fact to Plaintiffs that Donald Trump was the developer of the Project.

164. Should the Court determine that Donald Trump was one of the developers of the Project, Trump's agents falsely represented that purchasers could reside in the building full-time if they so desired, as alleged in more detail above. Trump and/or his agents omitted to inform Plaintiffs that the Developers had agreed to record a deed restriction that would expressly subject the units to subsequent rules by the City of Fort Lauderdale that would eliminate their right to reside full time in the Project. These representations and omissions are set forth in greater detail above.

165. Should the Court determine that Donald Trump was one of the developers of the Project, Trump and the other Developers also falsely represented that the budget disseminated to Plaintiffs in the offering documents was sufficient to operate the Project as a hotel at the Trump Standard, when in fact they knew or should have known that this budget was woefully inadequate

166. The representations and omissions set forth above were of material facts.

167. Trump knew, or should have known, that the above representations were false when made.

168. Plaintiffs entered into their purchase agreements in reasonable reliance on the material misrepresentations and omissions made by the Trump and/or his agents, and would not have done so but for these misrepresentations and omissions.

169. Plaintiffs have been damaged by their reliance on the false representations and omissions by Trump and/or his agent.

WHEREFORE Plaintiffs demand judgments against Defendant Donald Trump for fraud, and demand the return of all deposits, interest, costs, attorneys' fees, punitive damages, and such further relief as this Court deems just and proper.

COUNT VII - 15 U.S.C § 1703(d)

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT VIII – FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT
(Against Trump)

170. Plaintiffs reallege paragraphs 1-151 as if set forth herein.

171. Chapter 501, Florida Statutes, known as the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”) is to be liberally construed to protect the consuming public, such as the Plaintiffs in this case, from those who engage in unfair methods of competition, or unconscionable, deceptive or unfair acts or practices in the conduct of any trade or commerce.

172. Trump’s false representations and advertising, as alleged above, constitute unfair and/or deceptive trade practices.

173. Trump’s false statements that he was the developer or one of the developers of the Project was an unfair and/or deceptive trade practice.

174. Similarly, the statements by Trump and/or his agents that purchaser could reside in the Project full-time was an unfair and/or deceptive trade practice.

175. Additionally, providing Plaintiffs with numerous brochures, letters and promotional materials claiming that Trump was the developer or one of the developers of the Project, and thereafter identifying only Defendant SB Hotel in the purchase agreements, was a further deceptive practice intended to deceive Plaintiffs. Should the Court determine that Defendant Trump is not a developer of the Project subject to liability therefor, this deceptive practice constitutes a classic “bait and switch.”

176. Trump also falsely represented that the budget disseminated to Plaintiffs in the offering documents was sufficient to operate the Project as a hotel at the Trump Standard, when in

fact they knew or should have known that this budget was woefully inadequate.

177. The materials, including the Prospectus and Property Report, represented that unit owners would be able to use and occupy their units as deeded condominium units. None of the materials advised, and Plaintiff did not learn until the May 13, 2009 letter, that they could be barred from occupying their units unless and until the hotel operation opened. In addition, none of the materials disclosed that the hotel would not open unless at least 50% of the unit purchasers closed.

178. The materials, including the Prospectus and Property Report, represented that the property would include a luxurious hotel component. None of the materials represented that unit buyers could be required to close on units without the existence of an operational hotel, or that the hotel would not open unless 50% of the purchasers closed.

179. The violations described in the preceding paragraphs and in this complaint constitute *per se* violations of FDUTPA pursuant to §501.203(3), Fla. Stat.

180. The actions set forth in the preceding paragraph are likely to deceive a consumer, and have deceived the Plaintiffs/ consumers in this case. The above conduct constitutes a violation of FDUTPA.

181. Furthermore, Trump violated FDUTPA by violating ILSA and Chapter 718 of the Florida Statutes, as alleged more specifically above.

182. Trump knew that the above representations were false when made.

183. Plaintiffs have been damaged by Defendant's unfair and/or deceptive trade practices, including monetary losses, interest on their deposits, loss of use of the deposits, loss of business opportunities, inconvenience, frustration, and other incidental and consequential damages.

WHEREFORE, Plaintiffs demand judgment against Donald Trump for all damages and

equitable relief available under applicable law, including but not limited to, compensatory damages, incidental and consequential damages, punitive damages, attorneys' fees pursuant to the Florida Deceptive and Unfair Trade Practices Act, costs, interest, and such further relief as the Court may deem just and proper.

COUNT IX – RESCISSION

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT X - F.S. § 718.503

(Omitted Based on Settlement Agreement with SB Defendants)

COUNT XI – VIOLATION OF 15 U.S.C. § 1703(a)(2)(A)-(C)
(Against Trump)

184. Plaintiffs reallege paragraphs 1-151.

185. The federal Interstate Land Sales Full Disclosure Act (“ILSA”), codified at 15 U.S.C. § 1701 *et seq.*, was enacted by Congress in 1968 to protect consumers from fraud and abuse in the sale or lease of land. ILSA applies to the sale of condominium units, and is administered by the U.S. Department of Housing and Urban Development (HUD).

186. The Project is a subdivision as defined by 15 U.S.C. § 1701(3), as it consists of more than 100 units offered, marketed, promoted and sold to the public through the U.S. Mail, U.S. telephone lines, and other instrumentalities of interstate commerce as part of a common promotional plan as defined in 15 U.S.C. § 1701(4).

187. ILSA applies to the purchase agreements entered into by Plaintiffs and the Project, and the Project does not fall under any of the exemptions set forth in ILSA. The Project was registered with HUD.

188. Pursuant to 15 U.S.C. § 1703(a)(2), it is unlawful for any developer or agent, with respect to the sale or lease of any lot (including a condominium unit) not exempt under ILSA to:

- a) employ any device, scheme, or artifice to defraud, 15 U.S.C. § 1703(a)(2)(A);
- b) obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision, *id.* § 1703(a)(2)(B); or
- c) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser, *id.* § 1703(a)(2)(C).

189. Donald Trump is a “developer” and/or “agent” under ILSA (15 U.S.C. § 1701(5)-(6)) because, as set forth in the preceding paragraphs of this complaint, he directly and indirectly, and by virtue of his involvement in the development and promotion of the Project, offered to sell and sold units in the Project to members of the public, including Plaintiffs.

190. Trump is also an “agent” under ILSA because he represented or acted on behalf of a “developer” (as defined under § 1705(5)) by virtue of his involvement in the promotion and development of the Project and in the selling and offering to sell of units in the Project.

191. Advertising and promotional materials published by and under authority of the Defendants contained material statements and information that were false and misleading, including the following:

- (a) The materials, including the Prospectus and Property Report, represented that unit owners would be able to use and occupy their units as deeded condominium units. None of the materials advised, and Plaintiff did not learn until the May 13, 2009 letter, that they could be barred from occupying their units unless and until the hotel operation opened. In addition, none of the materials disclosed that the hotel would not open unless at least 50% of the unit purchasers closed.

- (b) The materials, including the Prospectus and Property Report, represented that the property would include a luxurious hotel component. None of the materials represented that unit buyers could be required to close on units without the existence of an operational hotel, or that the hotel would not open unless 50% of the purchasers closed.
- (c) The Prospectus included an operating budget for the hotel and represented that the budget was sufficient to run the hotel promised in the materials. None of the materials disclosed that the budget was insufficient to fund the promised hotel operation and was actually millions of dollars off target.
- (d) The advertising and promotional misrepresented the involvement of Donald Trump in the project by representing and creating the distinct impression that Trump was the developer or one of the developers of the Project, and was therefore financially backing the development of the Project. It was never disclosed that the Donald Trump did not invest any money in the Project, and the terms of the confidential agreements governing the Trump's role in the Project, including those governing Trump's rights to exit the project, were never disclosed to Plaintiffs.

192. Donald Trump knew that the foregoing misrepresentations were false and the omissions were misleading at the time the representations were made. Trump made the foregoing misrepresentations and omissions with the intent to induce Plaintiffs to act upon them. At the time the misrepresentations and omissions were made to Plaintiffs, Defendants Trump had intimate and superior knowledge regarding the Project, and the factual matters about which the false representations and omissions were made.

193. Plaintiffs reasonably relied on the foregoing misrepresentations and omissions in entering into the purchase agreements and paying their preconstruction deposits.

194. Plaintiffs have been damaged by the foregoing misrepresentations, omissions, and false and misleading information.

195. Plaintiffs have demanded the return of their deposits, but Trump has refused these demands.

196. Plaintiffs were injured by acting in reliance on Trump's omissions and misrepresentations.

WHEREFORE, Plaintiffs demand judgment against Trump for the return of their earnest money deposits pursuant to § 1703(d) and (e), compensatory damages, punitive damages, pre- and post-judgment interest, costs, attorneys' fees pursuant to 15 U.S.C. § 1709(c), together with such further relief as the Court deems just and proper.

COUNT XII – NEGLIGENT MISREPRESENTATION
(Against Trump)

197. Plaintiffs reallege paragraphs 1-151 as if set forth herein.

198. Should the Court determine that Donald Trump was not one of the developers of the Project, then Defendant Donald Trump made false representations of material fact, including that he was the developer or one of the developers of the Project and an investor therein.

199. Should the Court determine that Donald Trump was one of the developers of the Project, Trump's agents falsely represented that purchasers could reside in the building full-time, as and omitted to inform Plaintiffs that the Developers had agreed to record a deed restriction that would expressly subject the units to subsequent rules by the City of Fort Lauderdale that would eliminate their right to reside full time in the Project.

200. Should the Court determine that Donald Trump was one of the developers of the Project, Trump and the other Developers also falsely represented that the budget disseminated to Plaintiffs in the offering documents was sufficient to operate the Project as a hotel at the Trump Standard, when in fact they knew or should have known that this budget was woefully inadequate.

201. Trump's false representations were made and/or approved through the advertising and

promotional materials for the Project given to the Plaintiffs, as described more particularly above.

202. Trump's false representations were made to the Plaintiffs prior to Plaintiffs entering into their purchase agreements, and were made to induce Plaintiffs to enter into the purchase agreements.

203. Trump made the above false representations for personal financial gain.

204. Trump knew or should have known that the above representations were false when made.

205. Plaintiffs entered into their purchase agreements in reasonable reliance on Trump's material misrepresentations, and would not have done so but for these misrepresentations.

206. Plaintiffs have been damaged by their reliance on Trumps negligent misrepresentations.

WHEREFORE Plaintiffs demand judgment against Defendant Donald Trump for negligent misrepresentation, and demand the return of all deposits, interest, costs, attorneys' fees, punitive damages, and such further relief as this Court deems just and proper.

COUNT XIII – FRAUDULENT CONCEALMENT
(Against Trump)

207. Plaintiffs reallege paragraphs 1 -151.

208. Defendant Donald Trump concealed material facts during his promotional and marketing activities relating to the Project regarding the criminal background of one of the Developer's key principals. Specifically, Trump failed to disclose that Bayrock's principal, Felix Sater a/k/a Felix Satter ("Sater"), was part of the Project's development team.

209. Sater was a convicted felon who had been barred from the securities industry in the

1990s and, as of 2004, had pled guilty in the U.S. District Court for the Eastern District of New York to racketeering in a \$40 million “pump and dump” stock scheme backed by organized crime. Despite knowing these facts, Trump knowingly and intentionally concealed them from prospective buyers of units in the Project, including Plaintiffs, and failed to disclose these facts in any of the offering documents and promotional materials.

210. The foregoing facts about Sater’s criminal background were material and bore directly on the integrity of the project and likelihood it would succeed. Trump had a duty to disclose these facts to Plaintiffs. Had Plaintiffs known them, they would not have entered into the Purchase Agreements or paid deposits.

211. Plaintiffs have demanded the return of their deposits, but Defendant Trump has refused the demand.

WHEREFORE, Plaintiffs demand compensatory and punitive damages, pre- and post-judgment interest, costs, attorneys’ fees, and such other relief that the Court deems necessary or proper.

COUNT XIV – IMPOSITION AND FORECLOSURE OF VENDEES’ LIENS

(Against CCV)
(Previously Count XI)

212. Plaintiffs reallege paragraphs 1-151 as if set forth herein.

213. Plaintiffs are entitled to the return of their Earnest Money Deposits based on their claims set forth above.

214. The Developers refused to return the Earnest Money Deposits to Plaintiffs.

215. Because the Plaintiffs did not receive the return of their Earnest Money Deposits, they

continue to have equitable vendees' liens on the Property. Plaintiffs own and hold their equitable vendees' liens on the Property.

216. Plaintiffs are entitled to equitable vendees' liens on the Project to secure their Earnest Money Deposits used to improve the real property, as well as to foreclose on their equitable vendees' liens to satisfy and repay Plaintiffs their Earnest Money Deposits.

217. Defendant CCV currently owns the Project as a result of its foreclosure on the construction loan on the Project.

218. CCV's Mortgage on the Property was NOT a purchase money mortgage. CCV's interest in the Property is inferior and subordinate to the Plaintiffs' equitable vendees' liens.

219. CCV's predecessor in interest, Corus Bank, had actual knowledge of the Plaintiffs' purchase agreements prior to entering into the Mortgage transaction. Accordingly, CCV was not a *bona fide* purchaser or lender for value, and acquired its' interest in the property subject and subordinate to the Plaintiffs' equitable vendees' liens against the property.

220. Any subordination provisions in the purchase agreements are unenforceable where the entire contract was induced by fraud, and the purchase contracts are therefore unenforceable and a legal nullity.

221. CCV's predecessor in interest, Corus Bank, prior to entering into the Mortgage transaction, had actual knowledge that the Plaintiffs had been fraudulently induced to enter into the purchase contracts by falsely representing that Donald Trump was one of the developers of the project. Consequently, CCV's predecessor was not entitled to rely on any subordination provisions in the purchase contracts. Moreover, where CCV's predecessor was aware that the purchase agreements were induced by fraud, equity requires that CCV's interest in the property be determined

to be subordinate to the Plaintiffs' equitable vendees' liens against the property.

222. The subordination provisions are further unenforceable where they do not identify CCV's predecessor in interest and further fail to specify the amount to which Plaintiffs' equitable liens are subordinated, as well as any other details of the subordination.

223. CCV's interests in the property are also inferior and subordinate to the Plaintiffs' equitable vendees' liens against the property by virtue of CCV's actual knowledge of Plaintiffs' claims prior to acquiring the Mortgage and succeeding to the rights of Corus Bank. Specifically, the Plaintiffs' recorded a *lis pendens* against the project **prior** to CCV acquiring an interest in the Project. Moreover, notice of Plaintiffs' equitable vendees' lien claims was provided to the FDIC, the majority partner of CCV (60%), by letters dated August 31, 2009 – again prior to CCV acquiring an interest in the Property. Copies of the *lis pendens* and letters to the FDIC are attached hereto as exhibits 64 and 64, respectively.

224. Plaintiffs' have no adequate remedy at law because the prior owner of the property, SB Hotel, was a single asset entity and owned no property other than the Project, and is insolvent. SB Hotel has no assets or money to repay Plaintiffs the portions of their money that were used to construct the project.

WHEREFORE Plaintiffs demand judgment imposing equitable vendees' liens on the Project to the extent of Plaintiffs' deposits disbursed from escrow to which they are entitled, and foreclosure of their equitable liens, together with such further relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demands a jury trial on all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email on: Herman J. Russomanno III, Esq., Russomanno & Borrello, P.A., 150 West Flagler Street, Miami, FL 33130, Herman2@russomanno.com; and Stephanie R. Traband, Esq., Stuart I. Grossman, Esq., Levine Kellogg Lehman Schneider Grossman, LLLP, 201 S Biscayne Blvd., Fl 22, Miami, Florida 331312301, sig@lklsg.com, srt@lklsg.com on this 31st day of July 2013.

JOSEPH E. ALTSCHUL, LLC
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By: /s Joseph Altschul
JOSEPH E. ALTSCHUL, ESQ.
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